

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227
(LJV)

v.

September 25, 2024

JOSEPH BONGIOVANNI ,

Defendant.

TRANSCRIPT EXCERPT - EXAMINATION OF ANTHONY CASULLO - DAY 2
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY
BY: JOSEPH M. TRIPPI, ESQ.
NICHOLAS T. COOPER, ESQ.
CASEY L. CHALBECK, ESQ.

Assistant United States Attorneys
Federal Centre, 138 Delaware Avenue
Buffalo, New York 14202
For the Plaintiff

SINGER LEGAL PLLC

BY: ROBERT CHARLES SINGER, ESQ.
80 East Spring Street
Williamsville, New York 14221
And

LAW OFFICES OF PARKER ROY MacKAY
BY: PARKER ROY MacKAY, ESQ.
3110 Delaware Avenue
Kenmore, New York 14217
And

OSBORN, REED & BURKE, LLP
BY: JOHN J. GILSENAN, ESQ.
120 Allens Creek Road
Rochester, New York 14618
For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

1 | COURT DEPUTY CLERK: COLLEEN M. DEMMA

2 **COURT REPORTER:** **ANN MEISSNER SAWYER, FCRR, RPR, CRR**
3 Robert H. Jackson Federal Courthouse
4 2 Niagara Square
Buffalo, New York 14202
Ann_Sawyer@nywd.uscourts.gov

* * * *

8 (Excerpt commenced at 9:42 p.m.)

9 | (Jury is present.)

10 **THE COURT:** The record will reflect that all our
11 jurors are here.

12 I remind the witness that he's still under oath.

13 | And, Mr. Singer, you may continue.

14
15 **A N T H O N Y C A S U L L O**, having been previously duly
16 called and sworn, continued to testify as follows:

(CONT'D) CROSS-EXAMINATION BY MR. SINGER:

19 Q. Good morning, Mr. Casullo.

20 A. Good morning.

21 Q. So yesterday we left off going through some of the events
22 that led up to that August 1, 2018 meeting you had with the
23 U.S. Attorneys, correct?

24 A. Correct.

25 Q. So I want to get a little bit more into that particular

09:43AM 1 meeting. At that meeting, there were a number of prosecutors
09:43AM 2 involved in the case; is that right?

09:43AM 3 A. At that meeting, so this was the meeting that my
09:43AM 4 supervisor attended?

09:43AM 5 Q. That's correct, yes. G.S. McHugh was there?

09:43AM 6 A. G.S. McHugh and AUSA Tripi, I believe.

09:43AM 7 Q. Okay.

09:43AM 8 A. He was there, I don't know if there was anybody else.

09:43AM 9 Q. Okay. So you remember that G.S. McHugh was with you at
09:43AM 10 the meeting?

09:43AM 11 A. Yes.

09:43AM 12 Q. Do you recall that you were at the meeting?

09:43AM 13 A. Yes.

09:43AM 14 Q. You recall that AUSA Tripi was at the meeting?

09:43AM 15 A. Correct.

09:43AM 16 Q. Could there have been other people at the meeting
09:43AM 17 possibly?

09:43AM 18 A. I can't remember.

09:43AM 19 Q. Okay. And -- and you went into the meeting under the
09:43AM 20 understanding that you were there to discuss the Anthony
09:43AM 21 Gerace/Peter Gerace investigation?

09:43AM 22 A. Correct.

09:43AM 23 Q. So, when you get there and you sit down at the conference
09:43AM 24 table, you don't immediately start discussing what's going on
09:43AM 25 with that part of the investigation, right?

09:43AM 1 A. I don't remember how it started.

09:43AM 2 Q. But you do recall that AUSA Tripi raised a concern with

09:44AM 3 you regarding your brother-in-law, Phil Domiano?

09:44AM 4 A. Yes.

09:44AM 5 Q. And so we've learned a little bit about Phil Domiano

09:44AM 6 yesterday on direct, so he's your brother-in-law, right?

09:44AM 7 A. Correct.

09:44AM 8 Q. He's your wife's brother?

09:44AM 9 A. Yes.

09:44AM 10 Q. You had mentioned that he had been a little bit of a

09:44AM 11 thorn in your side, for lack of a better word, during the

09:44AM 12 duration with your relationship your wife?

09:44AM 13 A. Pretty much.

09:44AM 14 Q. He's somebody who you don't really like a lot, correct?

09:44AM 15 A. We don't talk.

09:44AM 16 Q. And he's someone that your wife doesn't necessarily get

09:44AM 17 along with either?

09:44AM 18 A. I wouldn't say that. I mean, it's her brother, so she

09:44AM 19 talks to him.

09:44AM 20 Q. But a little less based on her relationship with you?

09:44AM 21 A. Yeah. Probably.

09:44AM 22 Q. You talked about how, you know, from time to time you

09:44AM 23 would see him, right?

09:44AM 24 A. Yeah.

09:44AM 25 Q. Yeah, so for instance, like when you lived out in

09:44AM 1 Las Vegas, Phil Domiano lived out in Las Vegas, correct?

09:44AM 2 A. Correct.

09:44AM 3 Q. And he's someone who you'd see from time to time at

09:44AM 4 family events?

09:44AM 5 A. Correct.

09:44AM 6 Q. That kind of thing?

09:44AM 7 A. Yep.

09:44AM 8 Q. And when you would return to Buffalo, when he was living

09:45AM 9 in Buffalo, you'd run into him here, correct?

09:45AM 10 A. So he came back to Buffalo when I was in New York for

09:45AM 11 several months, so yeah, I'd seen him several times when I'd

09:45AM 12 come when I'd come back on weekends.

09:45AM 13 Q. Yeah, you talked about the one time where -- where you

09:45AM 14 went over to Brennan's to get some chicken wings, right?

09:45AM 15 A. Correct.

09:45AM 16 Q. And Phil Domiano was there, correct?

09:45AM 17 A. Yes.

09:45AM 18 Q. And then Peter Gerace came in shortly thereafter?

09:45AM 19 A. Yes.

09:45AM 20 Q. And that's when Peter Gerace passed you his cell phone

09:45AM 21 contact number -- or sorry, took yours?

09:45AM 22 A. Gave him mine, yes.

09:45AM 23 Q. Right. So -- so Phil, he lived here at one point in time

09:45AM 24 back in 2014 into 2015, correct?

09:45AM 25 A. Yeah. It was, again, I can't remember if it was like six

09:45AM 1 months exact timeframe but it was while I was in New York
09:45AM 2 City which was, what, December of 2013 up until September of
09:45AM 3 2015. So --

09:45AM 4 Q. And at that point in time when he has back here in
09:45AM 5 Buffalo, you'd -- he had taken a job with Peter Gerace at
09:45AM 6 Pharaoh's Gentlemen's Club, correct?

09:45AM 7 A. I found that out, yes.

09:45AM 8 Q. He was a manager over there, correct?

09:46AM 9 A. That's what I was told.

09:46AM 10 Q. So Domiano, besides having this connection to Peter
09:46AM 11 Gerace up here in Buffalo, he also had some connections to
09:46AM 12 some more unsavory people involved in narcotics back in Las
09:46AM 13 Vegas; is that right?

09:46AM 14 A. That's what I believe.

09:46AM 15 Q. And you also believe that he had some connections or
09:46AM 16 relationships with people you believe to have IOC connections
09:46AM 17 in Vegas, correct?

09:46AM 18 A. I think so.

09:46AM 19 Q. So, at the meeting, AUSA Tripi tells you that he has some
09:46AM 20 concerns about your continued involvement in investigating
09:46AM 21 the case because Phil Domiano pops up as part of their
09:46AM 22 investigation, correct?

09:46AM 23 A. Again, I don't remember exactly what he said, but there
09:46AM 24 was a concern, yeah.

09:46AM 25 Q. And a particular concern was -- is that the investigators

09:46AM 1 were focusing in on possible overdoses and they believed that
09:46AM 2 Phil may have been involved as a manager at the same time
09:47AM 3 that a woman may have overdosed at Pharaoh's?

09:47AM 4 A. That's not how it was presented to me.

09:47AM 5 Q. You don't remember that part?

09:47AM 6 A. I remember it was presented to me that there was a police
09:47AM 7 report where they found a woman in a parking lot and she was
09:47AM 8 unconscious at the time. And the police were called. When
09:47AM 9 the police got there, I think they came, too, and I believe
09:47AM 10 Phil Domiano was present or a witness, but was on the police
09:47AM 11 report.

09:47AM 12 Q. And so in this situation, your brother-in-law, he's on
09:47AM 13 the police report revolving around this incident, correct?

09:47AM 14 A. That's what I was told.

09:47AM 15 Q. And he's working for Peter Gerace who's the target of the
09:47AM 16 investigation, correct?

09:47AM 17 A. Which I found out afterwards.

09:47AM 18 Q. And, so, Peter Gerace, at that point in time, there might
09:47AM 19 be information that Phil Domiano, your brother-in-law,
09:47AM 20 possesses regarding Peter Gerace, right?

09:47AM 21 A. At that time --

09:47AM 22 Q. Yes.

09:47AM 23 A. -- when he was interviewed? I mean, possibly. I mean,
09:47AM 24 logically, I would think so if he was --

09:48AM 25 Q. And he also might possess information regarding Pharaoh's

09:48AM 1 Gentlemen's Club based on his relationship with Gerace and
09:48AM 2 working there as a manager, right?

09:48AM 3 A. I think he would.

09:48AM 4 Q. And, so this would put you in a position because you may
09:48AM 5 be either using your brother-in-law as a witness against
09:48AM 6 Peter Gerace, right?

09:48AM 7 A. I'm confused with that question now.

09:48AM 8 Q. Sure. So -- so, let's say Phil Domiano had absolutely
09:48AM 9 nothing to do with this girl found in the parking lot?

09:48AM 10 A. Okay.

09:48AM 11 Q. He's still a witness to that, correct?

09:48AM 12 A. Based on the police report that I saw, he was a witness.

09:48AM 13 Q. And he's your brother-in-law, right?

09:48AM 14 A. And he's my brother-in-law.

09:48AM 15 Q. And you're the lead investigator in the case at the time,
09:48AM 16 right?

09:48AM 17 A. At which time?

09:48AM 18 Q. At the time that you're sitting down, talking to AUSA
09:48AM 19 Tripi --

09:48AM 20 A. Yes.

09:48AM 21 Q. -- on August 1st, 2018?

09:48AM 22 A. Yeah, yes, yep.

09:48AM 23 Q. And on top of that, let's say Phil Domiano has something
09:48AM 24 that's -- that's not innocent involved in this situation in
09:48AM 25 the parking lot at Pharaoh's, right?

09:48AM 1 Let's say that he doesn't have that. You'd be
09:48AM 2 potentially investigating your brother-in-law as a target,
09:48AM 3 correct?

09:49AM 4 A. Again, based on the circumstances, if it had something to
09:49AM 5 do with Pharaoh's or Peter Gerace, yeah, that would be a
09:49AM 6 conflict.

09:49AM 7 Q. And so, that was the concern that AUSA Tripi announced to
09:49AM 8 you that morning, correct?

09:49AM 9 A. Pretty much, that was my understanding.

09:49AM 10 Q. Because I think yesterday you talked about how you're
09:49AM 11 either in or out of a case when you know someone who's
09:49AM 12 subject to the investigation, right?

09:49AM 13 A. Yeah. One way or another, you have a discussion with
09:49AM 14 your supervisor if you think there is a conflict and then a
09:49AM 15 decision is made either to keep you in or not.

09:49AM 16 Q. And you said yesterday that, you know, if -- if you know
09:49AM 17 someone who's a potential target or witness in the
09:49AM 18 investigation, that that's something that puts you on
09:49AM 19 outside, correct, you have to stop doing what you're doing?

09:49AM 20 A. Again -- again, it depends. I mean, that's a discussion
09:49AM 21 with your supervisor and you discuss it.

09:49AM 22 Q. So there's no clear line when you're related to a
09:49AM 23 potential witness or a target in an investigation that says
09:49AM 24 all stop, you can't investigate anymore?

09:50AM 25 A. I wouldn't say there's a clear line. There's a

09:50AM 1 discussion with the supervisor, and then the supervisor and
09:50AM 2 usually an assistant special agent in charge, there would be
09:50AM 3 a discussion, and they would decide to either keep you in the
09:50AM 4 investigation depending on the circumstances or not, or if
09:50AM 5 something else occurred going forward that you could possibly
09:50AM 6 be removed. It just depends on the situation.

09:50AM 7 Q. So that morning, you explained to AUSA Tripi and the
09:50AM 8 others at the -- the meeting that -- that you don't believe
09:50AM 9 there's a conflict based on what you're told, correct?

09:50AM 10 A. Could you be more specific?

09:50AM 11 Q. Certainly. So, based on, after AUSA Tripi announces his
09:50AM 12 concerns to you in this meeting, you tell him that you don't
09:50AM 13 believe there's a conflict that requires your removal from
09:50AM 14 the case?

09:50AM 15 A. Again, I never told him that at that time. I don't
09:50AM 16 remember the exact conversation in terms of the words, but
09:50AM 17 I -- I don't believe I told him that I shouldn't be involved
09:50AM 18 at that point.

09:50AM 19 Q. You don't -- you don't believe that you told him you
09:50AM 20 should continue involvement at that time?

09:50AM 21 A. That I should continue involvement?

09:50AM 22 Q. Yes.

09:50AM 23 A. I was still involved at that time.

09:51AM 24 Q. And you believed at that point in time, notwithstanding
09:51AM 25 what you learned about Domiano, in this incident, you should

09:51AM 1 continue forward as being the investigator in the case,
09:51AM 2 correct?

09:51AM 3 A. Well, there was a discussion shortly after that where my
09:51AM 4 supervisors did remove me.

09:51AM 5 Q. Well, I'm not interested in that discussion later. What
09:51AM 6 I'm asking about is the August 1st, 2018 meeting. And at
09:51AM 7 that meeting, notwithstanding what AUSA Tripi told you, you
09:51AM 8 stated that you believe you should remain on the
09:51AM 9 investigation?

09:51AM 10 A. Again, I don't remember those exact words, but I
09:51AM 11 certainly didn't tell him at that time that I should be
09:51AM 12 removed from the investigation.

09:51AM 13 Q. Okay. So you don't recall saying something to the effect
09:51AM 14 of, hey, I should -- I should remain here, notwithstanding
09:51AM 15 what -- what I learned about Domiano?

09:51AM 16 A. I don't think that was really the words of the
09:51AM 17 conversation.

09:51AM 18 Q. But -- but, you -- you -- you do remember not saying
09:51AM 19 anything to the effect of I should be off this case at this
09:51AM 20 point?

09:51AM 21 A. Well, again, with AUSA Tripi there and my supervisor, I
09:51AM 22 did not say I should be off this investigation.

09:52AM 23 Q. So, going a little bit backwards to the summer of 2016,
09:52AM 24 we talked yesterday about how you opened the investigation
09:52AM 25 into Peter Gerace and one of the first things you did was --

09:52AM 1 was run his telephone information?

09:52AM 2 A. Pulled tolls, excuse me.

09:52AM 3 Q. And that resulted in information being discovered that

09:52AM 4 Joe Bongiovanni was in contact with Peter Gerace by

09:52AM 5 telephone?

09:52AM 6 A. Correct.

09:52AM 7 Q. And that's something that you alerted G.S. Yensan about,

09:52AM 8 correct?

09:52AM 9 A. Correct.

09:52AM 10 Q. And then after that, you noticed that Agent Bongiovanni

09:52AM 11 was giving you the cold shoulder around the office?

09:52AM 12 A. Yes.

09:52AM 13 Q. And so at that point in time, you made the decision

09:52AM 14 that -- I gotta try to smooth things over here?

09:52AM 15 A. Correct.

09:52AM 16 Q. And that's when you offered an invitation to Agent

09:52AM 17 Bongiovanni to come meet you in the conference room at the

09:52AM 18 DEA, correct?

09:52AM 19 A. Correct.

09:52AM 20 Q. So you talked a little bit about the conference room. So

09:52AM 21 that's something -- that's a room inside the -- the general

09:53AM 22 area where everyone works at the DEA?

09:53AM 23 A. Right. So on that side of the group, D-57, we had our

09:53AM 24 own conference room that was just off the hallway. So I

09:53AM 25 consider on the side of D-57, but anybody could use it.

09:53AM 1 Q. Yeah, it's just a regular conference room where you guys
09:53AM 2 would have your weekly meetings or regular meetings?

09:53AM 3 A. Right.

09:53AM 4 Q. And this is not like a soundproof room or interview room
09:53AM 5 for a suspect, right?

09:53AM 6 A. I mean, I have no idea if it's soundproof or not.

09:53AM 7 Q. Just a good old-fashioned conference room?

09:53AM 8 A. It's just a conference room.

09:53AM 9 Q. So, you invite Joe to meet you in the conference room and
09:53AM 10 he accepts the invitation?

09:53AM 11 A. Pretty much, yeah.

09:53AM 12 Q. The two of you walk into the room?

09:53AM 13 A. Yes.

09:53AM 14 Q. The door's closed?

09:53AM 15 A. I believe I shut the door.

09:53AM 16 Q. And that's when you two discuss what happened, correct?

09:53AM 17 A. Correct.

09:53AM 18 Q. And so you talked about how you -- you did this and you
09:53AM 19 weren't trying to get him in trouble in any way, right?

09:53AM 20 A. Correct.

09:53AM 21 Q. And he said something to the effect of, you know, this is
09:53AM 22 bullshit?

09:53AM 23 A. Yes.

09:53AM 24 Q. So he was displeased with what's happening as a result of
09:54AM 25 you looking into Peter Gerace?

09:54AM 1 A. I mean, based on what he said.

09:54AM 2 Q. And, so, this was something you didn't talk to
09:54AM 3 Mr. Bongiovanni about before sitting down with Greg Yensan
09:54AM 4 and deciding to subpoena the toll records, correct?

09:54AM 5 A. No.

09:54AM 6 Q. Like you didn't give him a heads-up, like, hey, you know,
09:54AM 7 I'm going open an investigation, I'm going to get subpoena
09:54AM 8 records for Peter Gerace's phone number, you didn't tell
09:54AM 9 him --

09:54AM 10 A. No, I didn't discuss that with Joe.

09:54AM 11 Q. That was only something that he learned after the fact,
09:54AM 12 correct?

09:54AM 13 A. I'm sorry.

09:54AM 14 Q. Sure. That was only something he learned about after it
09:54AM 15 was done, correct?

09:54AM 16 A. Learned about?

09:54AM 17 Q. After you subpoenaed the records --

09:54AM 18 A. I'm sorry, but what are you asking that I learned about?

09:54AM 19 Q. I'm not asking you. I'm asking it was only something
09:54AM 20 Mr. Bongiovanni learned about after you ran the subpoena,
09:54AM 21 correct?

09:54AM 22 A. I don't know when he learned about it. Based on my
09:54AM 23 conversations with Greg Yensan, Greg said that he --

09:54AM 24 Q. Again I'm not interested in what Mr. Yensan said?

09:54AM 25 A. Yeah, I don't know when Joe learned about it.

09:54AM 1 Q. Okay.

09:54AM 2 **MR. COOPER:** Judge, I'm going to object at this
09:55AM 3 point. The question is about what Mr. Bongiovanni knew and
09:55AM 4 when he knew it. The witness is trying to answer, and
09:55AM 5 Mr. Singer is cutting him off.

09:55AM 6 **THE COURT:** No.

09:55AM 7 **MR. COOPER:** That's the question that's asked.

09:55AM 8 **THE COURT:** I don't -- I don't think he's cutting him
09:55AM 9 off. The objection is overruled.

09:55AM 10 Go ahead, next question.

09:55AM 11 **BY MR. SINGER:**

09:55AM 12 Q. So -- so you do know that after you sit down with Greg
09:55AM 13 Yensan and talk to him about Joe's number came up, Joe's
09:55AM 14 behavior towards you changes, correct?

09:55AM 15 A. Correct.

09:55AM 16 Q. So that would indicate to you that he found out at some
09:55AM 17 point, right?

09:55AM 18 A. Correct.

09:55AM 19 Q. And this is something that -- that caught him by
09:55AM 20 surprise; fair statement?

09:55AM 21 **MR. COOPER:** Objection as to what caught the
09:55AM 22 defendant by surprise. How could he know that?

09:55AM 23 **THE COURT:** Caught the defendant by surprise? Is
09:55AM 24 that what you're asking?

09:55AM 25 **MR. SINGER:** Yes.

09:55AM 1 **THE COURT:** Sustained.

09:55AM 2 **BY MR. SINGER:**

09:55AM 3 Q. So, again, you didn't tell Mr. Bongiovanni that you were
09:55AM 4 running subpoenas on Mr. Gerace's phone before you did it,
09:55AM 5 right?

09:55AM 6 A. I didn't tell him.

09:55AM 7 Q. Okay. So, one of the things after Mr. Bongiovanni said
09:55AM 8 it was bullshit that you talked about yesterday on direct was
09:56AM 9 that he told you something to the effect of that Peter Gerace
09:56AM 10 is -- is not a drug dealer, he's a drug abuser, right?

09:56AM 11 A. In sum and substance.

09:56AM 12 Q. And another thing you testified about was that when you
09:56AM 13 were having this conversation, Mr. Bongiovanni said something
09:56AM 14 to the effect of this kid called me up when a stripper was
09:56AM 15 overdosing at the club and I told her to get her out of
09:56AM 16 there?

09:56AM 17 A. Correct.

09:56AM 18 Q. And, so, this particular conversation that you had, you
09:56AM 19 weren't recording this conversation, right?

09:56AM 20 A. No.

09:56AM 21 Q. You weren't taking notes during this conversation, right?

09:56AM 22 A. No.

09:56AM 23 Q. You weren't taking any notes after the conversation,
09:56AM 24 correct?

09:56AM 25 A. Not right after. It was down the road.

09:56AM 1 Q. Yeah. So what I'm getting at is like after you left the
09:56AM 2 meeting, you didn't jot down on a pad, this is what I said to
09:56AM 3 Joe and this is what Joe said?

09:56AM 4 A. No.

09:56AM 5 Q. You didn't write a report about this, right?

09:57AM 6 A. No.

09:57AM 7 Q. So your memory is that -- is that Joe had told Gerace to
09:57AM 8 get the person out of there who's overdosing?

09:57AM 9 A. And I told, what I said, is what it was.

09:57AM 10 Q. Do you recall any type of discussion about Narcan?

09:57AM 11 A. Absolutely not.

09:57AM 12 Q. You don't recall any discussion about Narcan coming up
09:57AM 13 during your conversation in the conference room?

09:57AM 14 A. Absolutely 100 percent no.

09:57AM 15 Q. When Joe told you based on what you stated in direct
09:57AM 16 yesterday that -- that Peter Gerace should get her out of
09:57AM 17 there, did you follow up with any questions?

09:57AM 18 A. No, I was in shock.

09:57AM 19 Q. So you never asked what do you mean by that?

09:57AM 20 A. No. I was in shock what he had just said to me.

09:57AM 21 Q. Do you know if Joe Bongiovanni was referring to calling
09:58AM 22 911?

09:58AM 23 A. That never was said.

09:58AM 24 Q. Do you know if the "get her out of there" comment
09:58AM 25 referred to get that person medical attention?

09:58AM 1 A. That was never said.

09:58AM 2 Q. Do you know if the comment "get her out of there"
09:58AM 3 referred to get that person to a hospital?

09:58AM 4 A. That was never said.

09:58AM 5 Q. And you never asked any follow-up questions to understand
09:58AM 6 what that meant, right?

09:58AM 7 A. No, I was too in shock that a convicted felon had just
09:58AM 8 called a DEA agent about a stripper overdosing in his club,
09:58AM 9 and I was trying to process that.

09:58AM 10 Q. Okay. You would agree with me at least that keeping a
09:58AM 11 person at Pharaoh's Gentlemen's Club who has overdosed inside
09:58AM 12 the club is not really going to provide them much help,
09:58AM 13 right?

09:58AM 14 A. My belief, if someone is overdosing, you don't move them
09:58AM 15 and you call paramedics. That is my experience based on
09:58AM 16 being a police officer, based on training that I've had, and
09:58AM 17 first responder training. That's my belief.

09:59AM 18 Q. That's what I'm getting at.

09:59AM 19 A. That's what you do. You call someone that is a
09:59AM 20 paramedic, 911, someone that could attend to that person.

09:59AM 21 Q. That's what I'm getting at, is that -- is that if there's
09:59AM 22 no medical attention available at Pharaoh's Gentlemen's Club,
09:59AM 23 that person's not gonna get any help by remaining there,
09:59AM 24 correct?

09:59AM 25 A. Oh, no, you -- you call someone. They remain there.

09:59AM 1 That could become a crime scene if someone's overdosing.

09:59AM 2 Q. And, again, that's not the question I asked, sir.

09:59AM 3 A. Okay.

09:59AM 4 Q. What I asked you is that if there's no medical attention
09:59AM 5 available at Pharaoh's Gentlemen's Club, keeping that person
09:59AM 6 at Pharaoh's Gentlemen's Club is not gonna get them any help,
09:59AM 7 right?

09:59AM 8 A. What's going to get them help is by calling someone for
09:59AM 9 help.

09:59AM 10 Q. I agree. Because there's no medical attention, to your
09:59AM 11 understanding, at Pharaoh's Gentlemen's Club, right?

09:59AM 12 A. I have no idea.

09:59AM 13 Q. And when you heard this comment, you're processing it,
09:59AM 14 you said, right?

09:59AM 15 A. Trying to.

10:00AM 16 Q. What's going through your head when you're trying to
10:00AM 17 process what was said?

10:00AM 18 A. That a convicted felon had just called a DEA agent about
10:00AM 19 a stripper overdosing at his club. And why would that -- why
10:00AM 20 would that even happen? Why -- to me, as a DEA agent,
10:00AM 21 receiving phone calls from someone that is a convicted felon
10:00AM 22 about someone overdosing for what purpose, what purpose could
10:00AM 23 I possibly serve at that moment to help that situation?
10:00AM 24 Common sense tells me that you would call a paramedic to help
10:00AM 25 someone that's overdosing, not call a DEA agent that

10:00AM 1 investigates narcotics crimes. It doesn't even make sense to
10:00AM 2 me.

10:00AM 3 Q. So, is it a fair statement that you inferred some type of
10:00AM 4 nefarious purpose behind the call?

10:00AM 5 A. At the end of that meeting, trying to process everything,
10:00AM 6 that was one of the things I was trying to process. If he
10:00AM 7 was being called for some possible nefarious purpose such as
10:01AM 8 covering up an overdose, that Gerace might be calling him as
10:01AM 9 a convicted felon, a DEA agent to figure out how to deal with
10:01AM 10 this situation.

10:01AM 11 Not for the health of the person that had overdosed,
10:01AM 12 which to me is common sense, but because a stripper overdosed
10:01AM 13 in a strip club of a convicted felon that's running that club
10:01AM 14 somehow, and that is a huge problem for that person.

10:01AM 15 Q. So, it seems like there's a couple of things going on.
10:01AM 16 So I want to break that down.

10:01AM 17 So on one hand, we just talked is this call by Peter
10:01AM 18 Gerace to Joe Bongiovanni not for help, right? That's one
10:01AM 19 thing that's going on in your head?

10:01AM 20 A. Possibly.

10:01AM 21 Q. Another thing that's going on in your head is why would
10:01AM 22 Peter Gerace not pick up the call -- a phone and call 911,
10:01AM 23 and instead pick up the phone and call Joe Bongiovanni?
10:01AM 24 That's not going to get Peter Gerace help, correct?

10:01AM 25 A. Why is he calling Joe Bongiovanni based on those

10:01AM 1 circumstances.

10:01AM 2 Q. So, there's this back and forth that you're having in
10:02AM 3 your mind as you're trying to process this between is it
10:02AM 4 Peter Gerace called Joe Bongiovanni and you don't get the
10:02AM 5 point of that? Or Peter Gerace called Joe Bongiovanni and
10:02AM 6 there's something nefarious behind it, right?

10:02AM 7 A. It is the shock of hearing it, first of all. And then
10:02AM 8 during the moments afterwards and within that timeframe of
10:02AM 9 trying to process that whole thing.

10:02AM 10 Q. And I -- is it a fair statement that one of the reasons
10:02AM 11 you have this back and forth in your mind when you're trying
10:02AM 12 to process what you were told is that you knew Joe
10:02AM 13 Bongiovanni for several months at that point in time,
10:02AM 14 correct?

10:02AM 15 A. I had known Joe since I met him years ago when I would
10:02AM 16 come home in the summer.

10:02AM 17 Q. Yeah, but as far as like a working relationship, you had
10:02AM 18 known him for a longer period of time in the office for
10:02AM 19 several months at that point?

10:02AM 20 A. Several months.

10:02AM 21 Q. I think you mentioned that you -- you worked a couple
10:02AM 22 different cases together when you first got up to the DEA in
10:02AM 23 Buffalo in September of 2015?

10:02AM 24 A. Correct.

10:02AM 25 Q. And, so, you know, there's some trust that you developed

10:03AM 1 between Agent Bongiovanni when you worked together?

10:03AM 2 A. Correct.

10:03AM 3 Q. And so that's something that's influencing this back and

10:03AM 4 forth?

10:03AM 5 A. It's -- it's bothersome to me.

10:03AM 6 Q. So after this comment's made, you two continued to

10:03AM 7 converse, correct?

10:03AM 8 A. For a little bit.

10:03AM 9 Q. And one of the things you talked about yesterday was that

10:03AM 10 at some point, Mr. Bongiovanni accused you of having some

10:03AM 11 type of Italian-American bias, correct?

10:03AM 12 A. He asked if I hated Italians.

10:03AM 13 Q. And so you're Italian-American, correct?

10:03AM 14 A. I am.

10:03AM 15 Q. He's Italian-American, correct?

10:03AM 16 A. Yes.

10:03AM 17 Q. And so if one Italian-American is accusing another

10:03AM 18 Italian-American of anti-Italian-American bias, that's

10:03AM 19 something that would strike you as odd off the bat?

10:03AM 20 A. I found what he said to me as highly insulting.

10:04AM 21 Q. Okay. So, you drew that comment as an insult, correct?

10:04AM 22 A. I found it insulting. And I also at the same time found

10:04AM 23 it concerning as if he was trying to convince me not to

10:04AM 24 investigate Peter Gerace.

10:04AM 25 Q. All right. So you drew two negative inferences from that

10:04AM 1 comment that was made, correct?

10:04AM 2 A. Based on what I just told you, those two negative
10:04AM 3 inferences.

10:04AM 4 Q. And then after this comment back and forth when you deny
10:04AM 5 that you have a bias like that, that's when you allege that
10:04AM 6 Mr. Bongiovanni made this racial remark about who the DEA
10:04AM 7 should be investigating, correct?

10:04AM 8 A. It was shortly after that. First he asked if Gerace was
10:04AM 9 friends with my brother-in-law, and then made the racial
10:04AM 10 comments.

10:04AM 11 Q. Now you stated yesterday on direct that when you two
10:04AM 12 first get into the conference room, Joe Bongiovanni's angry,
10:04AM 13 right?

10:04AM 14 A. Again, he's not talking to me.

10:04AM 15 Q. But when you get into the conference room, you can see
10:05AM 16 that he's visibly upset, correct?

10:05AM 17 A. Based on him saying this is bullshit, he seemed upset.

10:05AM 18 Q. Mr. Cooper asked you, is he upset crying or upset mad.
10:05AM 19 And you said it's not crying, it's mad; remember that?

10:05AM 20 A. Yeah.

10:05AM 21 Q. So he's mad in that meeting, right?

10:05AM 22 A. Yeah, I would say upset.

10:05AM 23 Q. He's saying it's bullshit to start right off the bat,
10:05AM 24 correct?

10:05AM 25 A. Correct.

10:05AM 1 Q. And your guy's voices are not -- you know, just sitting
10:05AM 2 there and just having a normal conversation, correct?

10:05AM 3 A. We're not screaming at each other.

10:05AM 4 Q. But things are elevated as you said yesterday on direct?

10:05AM 5 A. The mood -- the mood, and there was tension, is elevated.

10:05AM 6 Q. Okay. So -- so, he's elevated, he's mad, he's angry,

10:05AM 7 right?

10:05AM 8 A. He seems upset.

10:05AM 9 Q. He's saying things in an upset tone to you, correct?

10:05AM 10 A. He did initially.

10:05AM 11 Q. And when you testified on direct yesterday, you mentioned

10:05AM 12 that when he made this racial remark, that he lowered his

10:05AM 13 voice; do you remember saying that?

10:05AM 14 A. I do.

10:05AM 15 Q. And so unlike all the other comments that were being made

10:06AM 16 back and forth between you and him, he lowered his tone of

10:06AM 17 voice at this point in time?

10:06AM 18 A. Again, I don't know about all of the comments at the

10:06AM 19 beginning when he came in and said this is bullshit and then

10:06AM 20 spouted out about Gerace calling him when a stripper

10:06AM 21 overdosed at his club. That was more animated in terms of

10:06AM 22 being upset.

10:06AM 23 I'd have to go through it step by step based on what I

10:06AM 24 believe was the point that he calmed down.

10:06AM 25 Q. So --

10:06AM 1 A. That the tone was lowered at some point.

10:06AM 2 Q. So -- so, it's your testimony that when he made this
10:06AM 3 racial comment, his -- he was calmer?

10:06AM 4 A. His tone of his voice was quieter. I wouldn't call it a
10:06AM 5 whisper, but it was toned down and quieter.

10:06AM 6 Q. So, after this comment is made, you know it's wrong,
10:06AM 7 right?

10:06AM 8 A. Well, absolutely. Again, in shock, trying to process
10:07AM 9 that a federal agent had just said that to me. So, yes, I do
10:07AM 10 know it's wrong.

10:07AM 11 Q. Okay. So unlike the comment about the stripper and get
10:07AM 12 her out of there, you don't have this back and forth in your
10:07AM 13 mind of what does this mean? What is Joe trying to
10:07AM 14 communicate to me, right?

10:07AM 15 A. I -- I knew very much so what he was trying to
10:07AM 16 communicate.

10:07AM 17 Q. And so the racial remark doesn't have that back and forth
10:07AM 18 in your head. You just know right off the bat, that's
10:07AM 19 something that's not appropriate?

10:07AM 20 A. It's shocking, and it's wrong, and he does not want me to
10:07AM 21 investigate Peter Gerace.

10:07AM 22 Q. So, the time that this comment was made, you allege that
10:07AM 23 was June of 2016, correct?

10:07AM 24 A. Yeah. Whatever I testified to that timeframe.

10:07AM 25 Q. And you'd been in the DEA at that point in time for about

10:07AM 1 15 years, a little bit more?

10:07AM 2 A. So -- approximately.

10:07AM 3 Q. And when you're in the DEA for that period of time,
10:08AM 4 there's trainings that you go to as far as racial
10:08AM 5 sensitivity, right?

10:08AM 6 A. We had ethics training at the DEA academy. I don't know
10:08AM 7 if there was ongoing training. I believe there was diversity
10:08AM 8 training that we had throughout the year, possibly. I don't
10:08AM 9 remember specifically, but it wouldn't be uncommon.

10:08AM 10 Q. Yeah, so I mean, like, you started at the DEA in 1999,
10:08AM 11 you went to the academy, right?

10:08AM 12 A. Correct.

10:08AM 13 Q. You had the ethics training there?

10:08AM 14 A. Yes.

10:08AM 15 Q. But, you know, safe to say, things changed over the
10:08AM 16 course of 15 years, 16 years, when you get up to 2016,
10:08AM 17 correct?

10:08AM 18 A. What's changed?

10:08AM 19 Q. As far as trainings that you received in the DEA?

10:08AM 20 A. I continued to receive training over those years.

10:08AM 21 Q. And racial sensitivity training, that's -- that's a
10:08AM 22 training that went on, maybe not in 1999 as much as it did
10:08AM 23 later in your career; is that right?

10:08AM 24 A. Again, with DEA, we had it at the academy. I can't
10:08AM 25 specifically remember specific training with DEA. I did have

10:08AM 1 more afterwards when I went to the State Attorney General's
10:09AM 2 Office, which was different.

10:09AM 3 Q. Okay. Let's just focus --

10:09AM 4 A. After --

10:09AM 5 Q. -- let's just focus in on DEA.

10:09AM 6 A. Sure.

10:09AM 7 Q. So your understanding of DEA policy is that if a fellow
10:09AM 8 officer in the DEA makes a comment like that, that's
10:09AM 9 something that you need to report, correct?

10:09AM 10 A. Correct.

10:09AM 11 Q. And it's not something that you hold onto and try to
10:09AM 12 process, the reporting rules are you need to report that to a
10:09AM 13 supervisor, correct?

10:09AM 14 A. Correct.

10:09AM 15 Q. And you're clear in the policy -- you're clear on that
10:09AM 16 policy in June of 2016, correct?

10:09AM 17 A. Yes.

10:09AM 18 Q. But you don't report it following your conversation,
10:09AM 19 right?

10:09AM 20 A. No, I didn't.

10:09AM 21 Q. Walking out of that meeting, you were torn a little bit
10:09AM 22 about is that comment about the stripper and get her out of
10:09AM 23 there something that Peter Gerace made the phone call to the
10:09AM 24 wrong person, or made the phone call to someone who might be
10:09AM 25 engaged in illegal misconduct with Peter Gerace, right?

10:09AM 1 A. What do you mean "the wrong person?"

10:10AM 2 Q. So you mentioned that one of the reasons why you were

10:10AM 3 trying to process what that call meant is that why would

10:10AM 4 Peter Gerace call Joe Bongiovanni? Why wouldn't he just call

10:10AM 5 911; do you remember testifying about that a few moments ago?

10:10AM 6 A. Yeah, I was completely caught off guard.

10:10AM 7 Q. And the other part of it was is Peter Gerace calling Joe

10:10AM 8 Bongiovanni because Joe Bongiovanni has some involvement in

10:10AM 9 this or has some type of involvement in a coverup, right?

10:10AM 10 A. Possibly.

10:10AM 11 Q. And so that's going back and forth in your head at that

10:10AM 12 point in time. When is it that you resolve what the nature

10:10AM 13 of that comment was?

10:10AM 14 A. The nature of the stripper overdosing?

10:10AM 15 Q. Yes.

10:10AM 16 A. I -- I didn't. I didn't. I had no idea what he was

10:10AM 17 talking about.

10:10AM 18 Q. So you didn't walk out of that meeting and then make a

10:10AM 19 decision a day or so later that this was for a bad purpose,

10:10AM 20 right?

10:10AM 21 A. I never made a conscious decision that I can remember.

10:10AM 22 But I can tell you that I was believing more in this being a

10:10AM 23 bad thing about Gerace calling a DEA agent for help. And in

10:11AM 24 my opinion at the time, help to cover something up.

10:11AM 25 Q. And that was based on the fact that in addition to this

10:11AM 1 one particular comment about the stripper and get her out of
10:11AM 2 there, there was also this racial remark that you allege
10:11AM 3 happened in the conversation, right?

10:11AM 4 A. Both those took place in that conversation.

10:11AM 5 Q. And so if you have both those together, why isn't it that
10:11AM 6 you go to the supervisor and report all of it at that time?

10:11AM 7 A. Sure. Sure. Very confused. Trying to process the whole
10:11AM 8 situation. In shock. Dealing -- sorry to use the term -- a
10:11AM 9 shit sandwich situation and not knowing what to do.

10:11AM 10 I genuinely did not know as an experienced agent how to
10:11AM 11 deal with that situation.

10:11AM 12 Q. Would you agree with me that you didn't have, like, any
10:11AM 13 type of long-standing allegiance to Joe Bongiovanni back in
10:11AM 14 June of 2016?

10:12AM 15 A. I have no idea what you mean, Mr. Singer. If you
10:12AM 16 could --

10:12AM 17 Q. Sure.

10:12AM 18 A. -- explain that.

10:12AM 19 Q. So you worked with him for a few months; is that right?

10:12AM 20 A. I worked with him for several months on a couple cases,
10:12AM 21 long-term investigation at that point is probably eight
10:12AM 22 months that I'm in the DEA office in Buffalo.

10:12AM 23 Q. And you said that before you joined the office in
10:12AM 24 September of 2015, you met Mr. Bongiovanni from time to time
10:12AM 25 at a social event that you may have attended?

10:12AM 1 A. Correct.

10:12AM 2 Q. So you didn't grow up with him, right?

10:12AM 3 A. I did not.

10:12AM 4 Q. You weren't friends with him, correct?

10:12AM 5 A. I never knew Joe Bongiovanni until I got hired by DEA.

10:12AM 6 Q. When you got up here in September of 2016, it wasn't like
10:12AM 7 you guys were hanging out after work, buddy-buddy, right?

10:12AM 8 A. Joe and I didn't do that.

10:12AM 9 Q. Your families weren't together after hours, correct?

10:12AM 10 A. No.

10:12AM 11 Q. And so is it a fair statement that you didn't have any
10:12AM 12 type of long-standing allegiance to Joe Bongiovanni in June
10:12AM 13 of 2016 when you alleged these comments were made?

10:12AM 14 A. Based on how you explained that, no.

10:12AM 15 Q. And we know based --

10:12AM 16 A. The term "allegiance," though, again, that's -- I'm
10:13AM 17 agreeing with what you just said, but that term "allegiance"
10:13AM 18 is not a term that I would use to describe that.

10:13AM 19 I had an allegiance to a fellow agent that I worked with.

10:13AM 20 I had an allegiance to somebody that was my partner that
10:13AM 21 had the same badge as I did, enforcing laws that we were
10:13AM 22 sworn to do.

10:13AM 23 I had an allegiance to someone that I conducted search
10:13AM 24 warrants with and went through doors with, trusting someone
10:13AM 25 to have my back in situations that are extremely dangerous,

1 trusting someone that I interviewed informants with that were
2 providing sensitive information.

3 So "allegiance" isn't a term I would use.

4 I did not hang out with Joe in the way that you explained
5 it, but yeah, I had an allegiance through the job of being
6 fellow agents together and partners during a case.

7 Q. Okay. So you had an allegiance based on your working
8 relationship; is that fair to say?

9 A. Correct.

10 Q. And, so, it's also a fair statement based on your direct
11 testimony that -- that you had a comfort -- sorry, strike
12 that.

13 You were not incapable of making reports about Joe
14 Bongiovanni to your boss, right?

15 A. What do you mean by "incapable?"

16 Q. So -- so one of the things that we went over on cross and
17 you went over on direct is that when you had a concern that
18 Joe's phone number would show up in Peter Gerace's phone
19 during the subpoena, you didn't just kind of hide that or do
20 nothing, right?

21 A. No, that wasn't as big a deal as what I was dealing with.

22 Q. Okay. But -- but you -- you had comfort in going to your
23 boss, G.S. Yensan, to report that concern, correct?

24 A. I wouldn't use the term "comfort," but I went to Greg
25 with that uncomfortable conversation.

10:14AM 1 Q. You were not incapable of discussing that with

10:14AM 2 G.S. Yensan?

10:14AM 3 A. I discussed that with Yensan.

10:14AM 4 Q. Because you had some trust that G.S. Yensan would give

10:14AM 5 you some advice on what to do, correct?

10:14AM 6 A. I just knew that it was better to tell him beforehand not

10:14AM 7 even knowing if it would come up and just address it then.

10:14AM 8 Q. Yeah. Like, G.S. Yensan was not some stranger to you at

10:14AM 9 that point in time, right?

10:14AM 10 A. No. No, he was my supervisor.

10:14AM 11 Q. And at -- at one point in time, he actually made you the

10:14AM 12 acting G.S. when he was no longer in the office, correct?

10:15AM 13 A. Yeah. I don't think it was at that point, but at some

10:15AM 14 point when I was in D-57, I was.

10:15AM 15 Q. So there's some trust that you have with G.S. Yensan,

10:15AM 16 correct?

10:15AM 17 A. Yes.

10:15AM 18 Q. And there's some trust that G.S. Yensan has with you,

10:15AM 19 correct?

10:15AM 20 A. Correct.

10:15AM 21 Q. Yet you still chose not to raise this conversation and

10:15AM 22 the allegations you make in it with G.S. Yensan back in June

10:15AM 23 of 2016?

10:15AM 24 A. No, that was a big jump from phone -- a phone number

10:15AM 25 being in contact with a convicted felon.

10:15AM 1 To me at the time, processing that was poor judgment.

10:15AM 2 Poor judgment of friends, poor judgment to continue to
10:15AM 3 associate with a convicted felon.

10:15AM 4 What I had just heard afterwards in that conference room
10:15AM 5 to me was beyond anything else I ever experienced in my law
10:15AM 6 enforcement career in dealing with a situation like that.

10:15AM 7 And I had no clue on how to process that, not even how to
10:15AM 8 deal with that, to the point that I, at some point, called
10:15AM 9 only fellow agents that had trained me to mention certain
10:15AM 10 things because I had no idea what to do. No idea what to do.

10:16AM 11 How to handle that bad, bad situation as I explained it, a
10:16AM 12 shit sandwich.

10:16AM 13 Q. And after all those conversations, you still chose not to
10:16AM 14 report it?

10:16AM 15 A. No, I didn't. No one gave me specific instructions and
10:16AM 16 things like that. They listened to me, and I still chose not
10:16AM 17 to.

10:16AM 18 Q. So when you raised this fact of this conversation at the
10:16AM 19 August 1st, 2018 meeting, you spoke about this after AUSA
10:16AM 20 Tripi asked you if there was a concern about Phil Domiano
10:16AM 21 being involved in this case; do you recall that?

10:16AM 22 A. Again, I don't remember his exact words, but it was
10:16AM 23 brought up and my belief was there was a concern, so --

10:16AM 24 Q. And you recall also telling prosecutors that -- that you
10:16AM 25 had a concern that possibly what Bongiovanni told you in that

10:16AM 1 June 2016 conversation had a link to what Domiano may have
10:16AM 2 been involved in?

10:16AM 3 A. Possibly. Based on the circumstances of that girl being
10:16AM 4 found in a parking lot, that it's possible that that could
10:17AM 5 have been an overdose. It could have been related back to
10:17AM 6 what I was initially told. I don't know. I mean, but it was
10:17AM 7 something that I mentioned.

10:17AM 8 Q. And as you talked about on direct yesterday, this was the
10:17AM 9 very first time that you raised this allegation to anyone,
10:17AM 10 correct?

10:17AM 11 A. It was the very first time that I had said it in front of
10:17AM 12 a DEA supervisor or anybody at the U.S. Attorney's Office.

10:17AM 13 Q. So G.S. McHugh was with you at that meeting, correct?

10:17AM 14 A. He was.

10:17AM 15 Q. And he wasn't aware that you were gonna make this
10:17AM 16 comment, correct?

10:17AM 17 A. No.

10:17AM 18 Q. AUSA Tripi wasn't aware you were gonna make this comment,
10:17AM 19 correct?

10:17AM 20 A. Not to my knowledge.

10:17AM 21 Q. And when you make this particular comment, that kind of
10:17AM 22 puts the meeting on hold for a little bit?

10:17AM 23 A. What do you mean?

10:17AM 24 Q. Sure. So, I mean, this is a pretty substantial
10:17AM 25 revelation that you just made about Agent Bongiovanni on

10:17AM 1 August 1st, 2018, correct?

10:17AM 2 A. I agree.

10:17AM 3 Q. Your supervisor, who was sitting next to you, was caught

10:17AM 4 completely off guard, right?

10:17AM 5 A. He was.

10:17AM 6 Q. AUSA Tripi was surprised by the comment, correct?

10:18AM 7 A. Again, I don't know if he was surprised, but --

10:18AM 8 Q. But this all of a sudden dominated the remainder of the

10:18AM 9 conversation in that meeting; is that right?

10:18AM 10 A. I don't know how much we spoke after that. I think -- I

10:18AM 11 think it was a little bit. I don't remember specifically

10:18AM 12 what of, but the meeting ended shortly after that.

10:18AM 13 Q. All right. So, when you made this allegation, again,

10:18AM 14 just so we're all tight with the timeline, this was after the

10:18AM 15 Ron Serio July 20, 2018 proffer, correct?

10:18AM 16 A. Correct.

10:18AM 17 Q. And in that proffer, again, Ron Serio implicated Joe

10:18AM 18 Bongiovanni providing information to him in some capacity?

10:18AM 19 A. Something to the effect of Joe passing names of DEA

10:18AM 20 informants.

10:18AM 21 Q. So you're aware of that, correct?

10:19AM 22 A. I was.

10:19AM 23 Q. This was after you conducted your investigation into the

10:19AM 24 Ron Serio file; is that right?

10:19AM 25 A. I don't remember specifically when I looked through the

10:19AM 1 Ron Serio file.

10:19AM 2 Q. We talked on cross yesterday --

10:19AM 3 A. Okay.

10:19AM 4 Q. -- that you took that step before you went into the
10:19AM 5 August 1st, 2018 meeting; do you remember that?

10:19AM 6 A. I believe so. Again, I'm sure you could show me, but I
10:19AM 7 have no reason to doubt what you're telling me.

10:19AM 8 Q. All right. And it was also after you took a look into
10:19AM 9 whether Peter Gerace showed up in any type of DEA reports and
10:19AM 10 you found Exhibit 30A that we looked at yesterday?

10:19AM 11 A. Yes. Yes.

10:19AM 12 Q. So all those things occurred after you made this comment
10:19AM 13 to AUSA Tripi, correct?

10:19AM 14 A. No, they occurred before.

10:19AM 15 Q. They all -- yes, I'm sorry. They all occurred before you
10:19AM 16 made this comment to AUSA Tripi on August 1st, 2018?

10:19AM 17 A. Correct.

10:19AM 18 Q. So, Mr. Casullo, your investigation into Peter Gerace,
10:20AM 19 eventually you're removed, you said, correct?

10:20AM 20 A. I was told at some point that I would not be involved in
10:20AM 21 the investigation of Peter Gerace.

10:20AM 22 Q. And I think you stated on direct that at first you didn't
10:20AM 23 really kind of understand the reason why, but later you came
10:20AM 24 to understand the reason why was because you were a witness
10:20AM 25 in the matter and could not investigate anymore?

10:20AM 1 A. Yes.

10:20AM 2 Q. As far as your case into Peter and Anthony Gerace that
10:20AM 3 existed before this time, Joe Bongiovanni didn't take any
10:20AM 4 steps to prevent you from continuing your investigation,
10:20AM 5 correct?

10:20AM 6 A. What do you mean?

10:20AM 7 Q. Sure. So -- so, you continued to take a look at Peter
10:20AM 8 Gerace in 2016, 2017, and onward, correct?

10:20AM 9 A. I continued, it's not so much after the meeting with Joe,
10:21AM 10 but after a phone call from the U.S. Attorney's Office.

10:21AM 11 Q. Well, we went through yesterday that in 2016, you didn't
10:21AM 12 perform any type of trash pulls or pole cams or pen
10:21AM 13 registers, things like that, right?

10:21AM 14 A. Correct.

10:21AM 15 Q. That your focus was to try to develop some type of
10:21AM 16 confidential source that you could use to dig inside the
10:21AM 17 organization?

10:21AM 18 A. That was my hope.

10:21AM 19 Q. And you didn't interview any strippers or anything along
10:21AM 20 those lines, but eventually Kevin Myszka came along?

10:21AM 21 A. Correct.

10:21AM 22 Q. And Kevin Myszka had information relevant to Peter Gerace
10:21AM 23 and Pharaoh's Gentlemen's Club, right?

10:21AM 24 A. Yeah. I found that out during the proffer, correct.

10:21AM 25 Q. And you don't have any information that Mr. Bongiovanni

1 prevented you from doing anything to exploit that information
2 that Kevin Myszka can gave you, correct?

3 A. I have no idea.

4 Q. He didn't stop you from using Kevin Myszka to develop
5 sources, vis-à-vis Peter Gerace, right?

6 A. I have no idea if Joe even was aware that we were doing
7 proffers and that Kevin was cooperating with us. I have no

8 idea. I wasn't working with him at that point, and I
9 certainly wasn't going to ask him to go to the proffer.

10 Q. But everything continued forward as normal after you got
11 the information from Kevin Myszka, correct?

12 A. So we conducted several proffers and he mentioned it, I
13 believe, in two, maybe all of them. I can't remember for
14 certain. So we conducted proffers, and Myszka provided
15 information. So as far as things going forward as normal --

16 Q. Yeah.

17 A. -- is what we said, in -- in what way?

18 Q. You still investigate Peter Gerace as you wanted,
19 correct?

20 A. I conducted those proffers and got that information from
21 Myszka.

22 Q. Like, nothing that Joe Bongiovanni did prevented you from
23 going into the Ron Serio proffer to talk about Anthony
24 Gerace, correct?

25 A. So nothing prevented me -- yeah, I don't think Joe was

1 aware that I was going to do that.

2 Q. And then when you start running the DARTS entries in the
3 beginning of August of 2018, it's after the Serio interview,
4 after this August 1st meeting, you mentioned that -- that Joe
5 came up to you and you had a conversation that made you
6 squirm; do you remember testifying to that?

7 A. Regarding the Anthony Gerace deconfliction.

8 Q. And you still continued to investigate Anthony Gerace,
9 correct?

10 A. For a short period of time, yeah. Because I was removed
11 shortly after that. So --

12 Q. And other officers in the DEA and HSI continued to
13 investigate Anthony Gerace, correct?

14 A. The only person I know that continued to investigate
15 Anthony Gerace was Curtis Ryan from Homeland Security --

16 Q. And you're --

17 A. -- who had left our office.

18 Q. And your understanding is that -- is that eventually
19 Agent Ryan towards the end of January executed a search
20 warrant in Anthony Gerace's house, correct?

21 A. Curtis Ryan and Homeland Security Investigations executed
22 a search warrant at Anthony Gerace's house at some point. I
23 wasn't involved, so I don't know the specifics.

24 Q. And all that happened before Joe Bongiovanni retired,
25 correct?

10:23AM 1 A. Again, you'd have to give me the timeline.

10:23AM 2 Q. Sure. So if he retired on February 1st of 2019 --

10:23AM 3 A. Yep.

10:23AM 4 Q. -- all that happened before he retired, right?

10:24AM 5 A. So that's when he retired. And when was the search
10:24AM 6 warrant executed?

10:24AM 7 Q. The search warrant was executed at the end of January of
10:24AM 8 2019.

10:24AM 9 A. Okay. Correct.

10:24AM 10 Q. You started looking into Michael Sinatra --

10:24AM 11 A. So, at some --

10:24AM 12 Q. -- for burglary?

10:24AM 13 A. So, at some point, yeah, I received a report from Scott
10:24AM 14 Sprague regarding a burglary. So initially I didn't know it
10:24AM 15 had anything to do with Michael Sinatra, I just knew it was a
10:24AM 16 burglary.

10:24AM 17 Q. And you came to learn that that burglary that happened on
10:24AM 18 New Year's Day, 2019, that's something that involved Mike
10:24AM 19 Sinatra, correct?

10:24AM 20 A. I did learn that at some point, correct.

10:24AM 21 Q. And that's something that you started to investigate as
10:24AM 22 well, correct?

10:24AM 23 A. Correct.

10:24AM 24 Q. You started to enter phone numbers into DARTS, correct?

10:24AM 25 A. I did.

10:24AM 1 Q. And we went through how he received notifications about
10:24AM 2 that, right?

10:24AM 3 A. About what?

10:24AM 4 Q. About -- about you entering information into DARTS,
10:24AM 5 correct?

10:24AM 6 A. Correct.

10:24AM 7 Q. And you continued that investigation unabated, correct?

10:24AM 8 A. I continued to do that investigation on Sinatra with
10:25AM 9 Curtis Ryan.

10:25AM 10 Q. And the first time that you make this report about that
10:25AM 11 June 2016 conversation you had with Mr. Bongiovanni was after
10:25AM 12 he was already under investigation, correct?

10:25AM 13 A. After he was already under investigation by who?

10:25AM 14 Q. By you, right?

10:25AM 15 A. I wasn't investigating Joe Bongiovanni. I was
10:25AM 16 investigating Peter Gerace. I was investigating Anthony
10:25AM 17 Gerace. I was not investigating Joseph Bongiovanni.

10:25AM 18 Q. So you were at the July 20, 2018 proffer, correct?

10:25AM 19 A. Correct.

10:25AM 20 Q. That's where Ron Serio made allegations against Joe
10:25AM 21 Bongiovanni, correct?

10:25AM 22 A. Correct.

10:25AM 23 Q. You're aware of those, and you reported those to your
10:25AM 24 bosses, correct?

10:25AM 25 A. We went back and spoke to Jim McHugh.

10:25AM 1 Q. And you understood that that was going to result in an
10:25AM 2 investigation into Joe Bongiovanni, right?

10:25AM 3 A. Well, that was the point of the conversation, how we were
10:25AM 4 going to handle that. And it was decided at that point that
10:26AM 5 that information would be opened in a -- or, included in a
10:26AM 6 Homeland Security Investigation, not a DEA investigation.

10:26AM 7 Q. Okay. And so Mr. Bongiovanni, when you walked in on
10:26AM 8 August 1st, 2018, and disclosed the June 2016 conversation,
10:26AM 9 was under investigation, right?

10:26AM 10 A. Again, could you please --

10:26AM 11 **THE COURT:** Mr. Singer, we need to take a break now.

10:26AM 12 **MR. SINGER:** Certainly, Judge.

10:26AM 13 **THE COURT:** So please, folks, remember my
10:26AM 14 instructions about not communicating about the case even with
10:26AM 15 each other, not making up your mind.

10:26AM 16 See you back here in about ten or 15 minutes.

10:26AM 17 (Jury excused at 10:26 a.m.)

10:27AM 18 **MR. MacKAY:** Yes, Judge, Mr. Bongiovanni flagged me
10:27AM 19 for an emergency --

10:27AM 20 **THE COURT:** Okay. Fine, fine. Okay. Anything
10:27AM 21 before we break?

10:27AM 22 **MR. MacKAY:** No thank you.

10:27AM 23 **MR. SINGER:** No, Judge.

10:27AM 24 **THE COURT:** Okay. We'll see you in about ten or 15
10:27AM 25 minutes.

10:27AM 1 **THE CLERK:** All rise.

10:27AM 2 (Off the record at 10:27 a.m.)

10:42AM 3 (Back on the record at 10:42 a.m.)

10:42AM 4 (Jury not present.)

10:42AM 5 **THE CLERK:** All rise.

10:42AM 6 **THE COURT:** Please be seated.

10:42AM 7 **THE CLERK:** We are back on the record for the

10:42AM 8 continuation of the jury trial in case number 19-cr-227,

10:43AM 9 United States of America versus Joseph Bongiovanni.

10:43AM 10 All counsel and parties are present.

10:43AM 11 **THE COURT:** Okay. Are we ready to resume?

10:43AM 12 **MR. SINGER:** Yes, Judge.

10:43AM 13 **MR. COOPER:** Yes, Judge.

10:43AM 14 **THE COURT:** Let's bring them back, please.

10:43AM 15 Let's get the witness back in.

10:44AM 16 (Witness and Jury seated at 10:44 a.m.)

10:44AM 17 **THE COURT:** The record will reflect that all our

10:44AM 18 jurors are present.

10:44AM 19 I remind the witness he's still under oath.

10:44AM 20 Mr. Singer, you may continue.

10:44AM 21 **MR. SINGER:** Thank you.

10:44AM 22 **BY MR. SINGER:**

10:44AM 23 Q. So, again, Mr. Casullo, you -- you -- you made an

10:44AM 24 official report about the June 2016 conversation that you

10:44AM 25 allegedly had with Mr. Bongiovanni not until August 1st of

10:44AM 1 2018, correct?

10:44AM 2 A. I -- I wrote a memo, but I never turned it in.

10:45AM 3 Q. And that official report was made to AUSA Tripi and

10:45AM 4 G.S. McHugh who were in your presence, correct?

10:45AM 5 A. I -- I can't remember who it was made through. I think

10:45AM 6 it was made through my chain of command, which would have

10:45AM 7 been Jim McHugh and Ed Orgon, I believe -- maybe, I think,

10:45AM 8 all the way up to ASAC Zon.

10:45AM 9 Q. But it was at that meeting that you disclosed this for
10:45AM 10 the first time officially?

10:45AM 11 A. It was at that meeting that we previously discussed.

10:45AM 12 Q. And that's a conversation in which you allege that

10:45AM 13 Mr. Bongiovanni reported an overdose or possible overdose at

10:45AM 14 Pharaoh's Gentlemen's Club, correct?

10:45AM 15 A. Based on what I said.

10:45AM 16 Q. That same conversation in which you allege that he used
10:45AM 17 the "N" and the "S" word to talk about investigations,

10:45AM 18 correct?

10:45AM 19 A. Yes.

10:45AM 20 Q. When all your training and reporting told you that you
10:45AM 21 should report the contents of that conversation immediately,
10:45AM 22 correct?

10:45AM 23 A. Correct.

10:45AM 24 Q. When all the training that you went to and the other
10:45AM 25 people you talked to about this went to, said they should

10:45AM 1 report the same thing, correct?

10:45AM 2 A. What about the other people?

10:46AM 3 Q. You said that you talked to other people in your office
10:46AM 4 and elsewhere about what was said in that June 2016
10:46AM 5 conversation, right?

10:46AM 6 A. There were several close friends, correct.

10:46AM 7 Q. And some of them were DEA agents, correct?

10:46AM 8 A. I believe they were -- almost all of them were DEA
10:46AM 9 agents.

10:46AM 10 Q. And those people went to the same training that you went
10:46AM 11 to, correct?

10:46AM 12 A. They went to the academy. I don't know if they had the
10:46AM 13 same training, but --

10:46AM 14 Q. And -- and they were aware of the duty to report those
10:46AM 15 things to their supervisor when they learned them, correct?

10:46AM 16 A. They should have been.

10:46AM 17 Q. And all of this happened after AUSA Tripi told you that
10:46AM 18 Phil Domiano was somebody who could cause you to get
10:46AM 19 conflicted off of the Peter Gerace investigation?

10:46AM 20 A. It came up during that meeting.

10:46AM 21 **MR. SINGER:** Thank you, I have no further questions,
10:46AM 22 Judge.

10:46AM 23 **THE COURT:** Redirect, Mr. Cooper?

10:46AM 24 **MR. COOPER:** Yes, Judge, thank you.

10:46AM 25

10:46AM 1

REDIRECT EXAMINATION BY MR. COOPER:

10:47AM 2 Q. What have you gained from reporting what the defendant
10:47AM 3 said to you in June of 2016 to the U.S. Attorney's Office and
10:47AM 4 Jim McHugh? What got better in your life?

10:47AM 5 A. It got worse.

10:47AM 6 Q. Anything? A single benefit?

10:47AM 7 A. Not a single thing. It made my career much more
10:47AM 8 difficult for the remaining years that I was at DEA, to the
10:47AM 9 point that I was actually allowed to go work on a task force
10:47AM 10 at the FBI office for my last, I believe, year and a half on
10:47AM 11 an organized crime task force outside the DEA office.

10:47AM 12 Q. Did you make it up?

10:47AM 13 A. Did I --

10:47AM 14 Q. Did you make up what the defendant said to you in
10:47AM 15 conference room?

10:47AM 16 A. Absolutely not.

10:47AM 17 Q. Did you invent it because you wanted to get attention?

10:48AM 18 A. Absolutely not.

10:48AM 19 Q. Were you cross-examined for, like, six hours over the
10:48AM 20 last two days?

10:48AM 21 A. Yes, sir.

10:48AM 22 Q. I'm estimating there.

10:48AM 23 Was that fun?

10:48AM 24 A. No.

10:48AM 25 Q. Did you have a good time?

10:48AM 1 A. No.

10:48AM 2 Q. Was this the second time that you've testified at a
10:48AM 3 proceeding in this case?

10:48AM 4 A. Yes.

10:48AM 5 Q. Did you get cross-examined in that case?

10:48AM 6 A. Yes.

10:48AM 7 Q. Was that a lot of fun?

10:48AM 8 A. No.

10:48AM 9 Q. Did reporting it cause you to not be allowed to work on
10:48AM 10 the investigation?

10:48AM 11 A. Yes.

10:48AM 12 Q. As you sit here today, do you feel remorse that you
10:48AM 13 didn't report it right away?

10:48AM 14 A. I should have reported that. Based on the racial
10:48AM 15 comments alone, let alone the other things, I should have, in
10:48AM 16 hindsight. I was dealing with a shitty situation, and I did
10:48AM 17 the best I could.

10:48AM 18 Q. Are you a perfect person?

10:48AM 19 A. Absolutely not.

10:49AM 20 Q. I want to talk about some things that you discussed
10:49AM 21 yesterday on cross-examination starting with this Mike
10:49AM 22 Masecchia 2004 Las Vegas investigation.

10:49AM 23 Defense counsel asked you some questions about the
10:49AM 24 conversation that you had with the defendant when the
10:49AM 25 defendant called you in 2004 about Mike Masecchia.

10:49AM 1 Do you remember Mr. Singer asking you about that?

10:49AM 2 A. Yes.

10:49AM 3 Q. Now, on direct exam, I asked you an open-ended question,
10:49AM 4 and I said tell the jury about the conversation you had with
10:49AM 5 the defendant, what did the defendant say.

10:49AM 6 Do you remember me asking you that?

10:49AM 7 A. Yes.

10:49AM 8 Q. And in your own words, you described that the defendant
10:49AM 9 said he grew up with Mike Masecchia, and that his name
10:49AM 10 couldn't be on any reports; is that correct?

10:49AM 11 A. In sum and substance, yes.

10:49AM 12 Q. Okay. I asked you whether the defendant told you that he
10:49AM 13 was friends with Mike Masecchia, and you said no on direct;
10:49AM 14 is that right?

10:49AM 15 A. Correct.

10:49AM 16 Q. I asked you whether the defendant told you that he drove
10:49AM 17 to college with Mike Masecchia every day, and you said no; is
10:49AM 18 that correct?

10:49AM 19 A. Correct.

10:49AM 20 Q. Later when Mr. Singer came up to ask you questions on
10:49AM 21 cross in the form of his question, he asked you whether the
10:50AM 22 defendant told you that he grew up with Mike, and that he
10:50AM 23 went to school with him.

10:50AM 24 Do you remember Mr. Singer asking you that question?

10:50AM 25 A. Kind of.

10:50AM 1 Q. What's that?

10:50AM 2 A. Could you repeat it?

10:50AM 3 Q. Sure. When Mr. Singer asked you questions, he asked you
10:50AM 4 in the form of his question if the defendant told you during
10:50AM 5 that 2004 phone call that he went to school with Mike
10:50AM 6 Masecchia.

10:50AM 7 Do you remember Mr. Singer asking you that?

10:50AM 8 A. Yes.

10:50AM 9 Q. Did the defendant say that to you in the 2004
10:50AM 10 conversation?

10:50AM 11 A. He said that they were from North Buffalo.

10:50AM 12 Q. Okay. He said they grew up together?

10:50AM 13 A. Yep.

10:50AM 14 Q. On that same topic, you were asked questions regarding
10:50AM 15 the information that the defendant told you about Masecchia
10:50AM 16 being investigated by the sheriffs for a marijuana grow in
10:50AM 17 the Southern Tier; do you remember that?

10:50AM 18 A. Yes.

10:50AM 19 Q. And you described that as, quote, good intelligence; is
10:50AM 20 that right?

10:50AM 21 A. Correct.

10:50AM 22 Q. Was there anything that you could do in Las Vegas to
10:50AM 23 investigate Mike Masecchia for grows in the Southern Tier of
10:50AM 24 New York?

10:51AM 25 A. No.

10:51AM 1 Q. You described it as good intelligence. If the defendant
10:51AM 2 had been tipping Mike Masecchia off about investigations into
10:51AM 3 his marijuana grows in the Southern Tier, would you still
10:51AM 4 consider the information the defendant conveyed to you to be
10:51AM 5 good intelligence?

10:51AM 6 **MR. SINGER:** Objection.

10:51AM 7 **THE COURT:** Basis of the objection?

10:51AM 8 **MR. SINGER:** Assumes a hypothetical and speculation.

10:51AM 9 **MR. COOPER:** Judge, there were lots of hypotheticals
10:51AM 10 on cross. I'm --

10:51AM 11 **THE COURT:** Hang on, hang on, hang on.

10:51AM 12 Overruled.

10:51AM 13 **BY MR. COOPER:**

10:51AM 14 Q. If the defendant was tipping Mike Masecchia off about
10:51AM 15 investigations at the same time that he's telling you, hey,
10:51AM 16 the sheriffs are looking at him for a grow, would it still be
10:51AM 17 good intelligence?

10:51AM 18 A. No.

10:51AM 19 Q. Would it be useless intelligence?

10:51AM 20 A. Yes.

10:51AM 21 Q. Defense counsel asked you some questions on cross about
10:51AM 22 reasons why the defendant, this defendant, might not have
10:52AM 23 wanted his name on reports related to Masecchia; do you
10:52AM 24 remember that?

10:52AM 25 A. Yes.

10:52AM 1 Q. Do you have any clue, any personal knowledge, as to why
10:52AM 2 this defendant didn't want his name on reports?

10:52AM 3 A. I had no personal knowledge.

10:52AM 4 Q. You don't know what's in his head, right?

10:52AM 5 A. No.

10:52AM 6 Q. Defense counsel asked you if one possibility was because
10:52AM 7 that would be awkward; do you remember being asked that?

10:52AM 8 A. Yes.

10:52AM 9 Q. Is another possibility because the defendant was tipping
10:52AM 10 Mike Masechchia off about investigations --

10:52AM 11 **MR. SINGER:** Objection.

10:52AM 12 **BY MR. COOPER:**

10:52AM 13 Q. -- so he didn't want to be on the paperwork?

10:52AM 14 **THE COURT:** Hang on. Stop.

10:52AM 15 Basis?

10:52AM 16 **MR. SINGER:** First off, lack of personal knowledge,
10:52AM 17 Judge. Secondly, speculation.

10:52AM 18 **MR. COOPER:** So, Judge, yesterday the question was
10:52AM 19 asked --

10:52AM 20 **MR. SINGER:** Judge, if we're going to argue --

10:52AM 21 **THE COURT:** Stop. Let me read it, first.

10:52AM 22 Okay. Come on up.

10:52AM 23 (Sidebar discussion held on the record.)

10:53AM 24 **MR. COOPER:** So, I objected yesterday, I believe, to
10:53AM 25 the question being asked when we were getting into asking Tony

10:53AM 1 to speculate about why the defendant might have not wanted his
10:53AM 2 name on reports. You overruled the objection.

10:53AM 3 Counsel's question was asking him if it was possible
10:53AM 4 that the reason he didn't want his name on the reports is
10:53AM 5 because it's awkward.

10:53AM 6 On redirect, I want to explore if another possibility
10:53AM 7 is because he's corrupt.

10:53AM 8 **MR. SINGER:** So -- so the basis of my question was
10:53AM 9 the conversation that he had with Bongiovanni.

10:53AM 10 Bongiovanni, as he related in his direct as well as
10:53AM 11 on cross, told him he didn't want his report -- he didn't want
10:53AM 12 his name on the report because he grew up with this guy.

10:53AM 13 **THE COURT:** Right.

10:53AM 14 **MR. SINGER:** And so I was alliterating for the jury
10:53AM 15 why it was that an agent in DEA would have such concerns. And
10:53AM 16 Agent Casullo, I brought up an analogous example of the Peter
10:53AM 17 Gerace investigation where his friend's -- sorry, his daughter
10:53AM 18 had a friend on the soccer team which made things awkward for
10:53AM 19 his name being on the report.

10:54AM 20 **THE COURT:** Right.

10:54AM 21 **MR. SINGER:** Also, that he grew up in North Buffalo
10:54AM 22 and that would make it awkward.

10:54AM 23 And that's all that I got into, Judge. I didn't get
10:54AM 24 into the hypotheticals of if this was happening this way. So
10:54AM 25 if he wants to ask --

10:54AM 1 **THE COURT:** Why can't he ask another -- go ahead.

10:54AM 2 **MR. SINGER:** Yeah. So if the government wants to ask
10:54AM 3 a question based on what I asked during my cross-examination,
10:54AM 4 that's within the scope, they can ask him why was it that you
10:54AM 5 talked about how it would be awkward for your daughter to be
10:54AM 6 on the same soccer team as a target of investigation, or if
10:54AM 7 you went to the same gym as somebody and lived in the same
10:54AM 8 community, that's fair game.

10:54AM 9 But this is completely outside the scope.

10:54AM 10 **MR. COOPER:** That's -- that's his narrative.

10:54AM 11 **THE COURT:** Stop. Stop. Stop. Stop.

10:54AM 12 Why isn't it -- so you say one reason why he might
10:54AM 13 not want his name on the report is because he's got a
10:54AM 14 connection, social connection to this guy. And you wouldn't
10:54AM 15 want to see his name in the report. Right?

10:54AM 16 Why isn't -- why isn't a legitimate question is
10:54AM 17 another reason because he was tipping him off?

10:55AM 18 **MR. SINGER:** So, because, my question was not based
10:55AM 19 on a hypothetical. My question was based on a direct answer
10:55AM 20 the witness gave on direct testimony regarding what Joe told
10:55AM 21 him about why he didn't want his name on the report.

10:55AM 22 This question is different. This question is a
10:55AM 23 hypothetical.

10:55AM 24 **THE COURT:** No, I don't think so. I don't think so.
10:55AM 25 No, no, no. And then I'll -- I think you opened the door to

10:55AM 1 him suggesting that there might be other reasons why, and --
10:55AM 2 and I'm going to allow it.

10:55AM 3 (End of sidebar discussion.)

10:55AM 4 **THE COURT:** The objection is overruled.

10:55AM 5 **BY MR. COOPER:**

10:55AM 6 Q. We'll start that question again.

10:55AM 7 Defense counsel asked you if one possibility why this
10:55AM 8 defendant wouldn't want his name on reports is because it
10:55AM 9 might be awkward for him.

10:55AM 10 Do you remember Mr. Singer asking you that question?

10:55AM 11 A. I do.

10:55AM 12 Q. Is another possibility is because the defendant was
10:55AM 13 tipping off Mike Masecchia about investigations, and he
10:55AM 14 didn't want his name on the paperwork?

10:55AM 15 A. That's certainly possible.

10:55AM 16 Q. Okay. You don't know, right?

10:55AM 17 A. I don't.

10:55AM 18 Q. You were asked some questions about -- on cross about the
10:56AM 19 Cory Higgins 2009 investigation into Mike Masecchia back in
10:56AM 20 Buffalo on cross.

10:56AM 21 Do you remember those questions?

10:56AM 22 A. Yes.

10:56AM 23 Q. And you and Mr. Singer went back and forth for a few
10:56AM 24 minutes about whether Masecchia was indexed with a NADDIS
10:56AM 25 number or not on that form, right?

10:56AM 1 A. Correct.

10:56AM 2 Q. And it was difficult to tell because the paper you were
10:56AM 3 looking at was redacted, right?

10:56AM 4 A. It was.

10:56AM 5 Q. A black line drawn over it?

10:56AM 6 A. Yep.

10:56AM 7 **MR. COOPER:** Okay. Ms. Champoux, can we pull up
10:56AM 8 what's in evidence as Government Exhibit 12A.

10:56AM 9 **BY MR. COOPER:**

10:56AM 10 Q. Is this the same ROI DEA-6 you were looking at yesterday?

10:56AM 11 A. This is a case closing.

10:56AM 12 Q. And this related to that 2009 Masecchia investigation
10:56AM 13 from Cory Higgins, right?

10:56AM 14 A. Yeah. Same case, case closing.

10:56AM 15 **MR. COOPER:** Can we go to page 2, Ms. Champoux.

10:57AM 16 Page 3. Page 4. There we go. We're good on page 4.

10:57AM 17 **BY MR. COOPER:**

10:57AM 18 Q. Do you see Mike Masecchia here, is he indexed?

10:57AM 19 A. He is indexed.

10:57AM 20 Q. Does he have a NADDIS number?

10:57AM 21 A. He does.

10:57AM 22 Q. That clears that up a little bit without the redaction,
10:57AM 23 right?

10:57AM 24 A. Correct.

10:57AM 25 **MR. COOPER:** Okay. You can take that down,

10:57AM 1 Ms. Champoux. Thanks.

10:57AM 2 **BY MR. COOPER:**

10:57AM 3 Q. Were you -- you were asked some questions on cross about
10:57AM 4 whether you ever got a call from the defendant in '09 putting
10:57AM 5 you in touch with Cory Higgins because he was investigating
10:57AM 6 Masecchia at that time, right?

10:57AM 7 A. Correct.

10:57AM 8 Q. Okay. And during that cross, Mr. Singer suggested to you
10:57AM 9 that you wouldn't have had any useful information to provide
10:57AM 10 because your investigation was closed before 2009.

10:57AM 11 Do you remember that?

10:57AM 12 A. I remember.

10:57AM 13 Q. Do DEA agents commonly share historical information about
10:57AM 14 targets with each other?

10:57AM 15 A. Yes.

10:57AM 16 Q. Does that help further investigations?

10:57AM 17 A. It certainly could.

10:58AM 18 Q. Does the fact that your file was closed mean that your
10:58AM 19 brain has no information about Mike Masecchia in it?

10:58AM 20 A. No.

10:58AM 21 Q. Did you know people he was supposed to be coming out to
10:58AM 22 Vegas to associate with?

10:58AM 23 A. I did.

10:58AM 24 Q. Did you have a case on those people?

10:58AM 25 A. Yes.

10:58AM 1 Q. Is it possible, based on your experience as a DEA agent,
10:58AM 2 that things you knew could have helped Cory Higgins?

10:58AM 3 A. Possibly.

10:58AM 4 Q. Did the defendant know that the Vegas office had a file
10:58AM 5 opened to Masecchia in 2004?

10:58AM 6 A. Yes.

10:58AM 7 Q. Did he know that the Buffalo office had a file opened
10:58AM 8 into Masecchia in 2004?

10:58AM 9 A. Yes.

10:58AM 10 Q. Are you aware of whether the defendant ever approached
10:58AM 11 Cory Higgins and actually spoke to him about the
10:58AM 12 investigation into Masecchia?

10:58AM 13 A. I wasn't aware until Cory Higgins told me --

10:58AM 14 Q. Okay.

10:58AM 15 A. -- at some point.

10:58AM 16 Q. Do you have personal knowledge of whether that happened
10:58AM 17 or not?

10:58AM 18 A. No.

10:58AM 19 Q. Do you know what the defendant -- do you have personal
10:58AM 20 knowledge of what that conversation was?

10:58AM 21 A. Not personal knowledge.

10:58AM 22 Q. Would Cory Higgins know that?

10:58AM 23 A. Cory Higgins should know that.

10:58AM 24 Q. Yep. Next I want to talk with you about the conversation
10:59AM 25 you had with this defendant about his Ron Serio case in 2015.

10:59AM 1 Do you remember being asked about that on cross?

10:59AM 2 A. Yes.

10:59AM 3 Q. Defense counsel asked you some questions on cross about
10:59AM 4 that fall 2015 conversation when the defendant talked to you
10:59AM 5 about his investigation of Ron Serio.

10:59AM 6 Do you remember being asked questions about that?

10:59AM 7 A. Yes.

10:59AM 8 Q. And Mr. Singer asked you whether you knew the file to be
10:59AM 9 closed already by the time the defendant said those things to
10:59AM 10 you; do you remember that?

10:59AM 11 A. I remember.

10:59AM 12 Q. Okay. And at the time you were having that conversation
10:59AM 13 with the defendant, he's telling you all about his big Ron
10:59AM 14 Serio file.

10:59AM 15 Did you know it to be closed at that time?

10:59AM 16 A. No.

10:59AM 17 Q. The way the defendant discussed the case with you, was he
10:59AM 18 representing to you that the case was open?

10:59AM 19 A. Yes.

10:59AM 20 **MR. COOPER:** Ms. Champoux, can we pull up Government
10:59AM 21 Exhibit 8B, please?

10:59AM 22 **BY MR. COOPER:**

10:59AM 23 Q. This report's called a case closing, right?

10:59AM 24 A. Yes.

10:59AM 25 Q. I think we looked at it on direct. It's written by Joe

11:00AM 1 Bongiovanni, correct?

11:00AM 2 A. Correct.

11:00AM 3 Q. And the date it's prepared is January 28th, 2015, right?

11:00AM 4 A. Correct.

11:00AM 5 Q. Okay. And the file number is C2-13-0026, right?

11:00AM 6 A. Correct.

11:00AM 7 Q. January of 2015 is at least six months, seven months

11:00AM 8 before you had that conversation with the defendant, right?

11:00AM 9 A. Correct.

11:00AM 10 Q. When he was telling you all about his Serio case, did he

11:00AM 11 pull out the case closing and say, Tony, my case has actually

11:00AM 12 been closed for six months?

11:00AM 13 A. No.

11:00AM 14 Q. He didn't say that?

11:00AM 15 A. No.

11:00AM 16 **MR. COOPER:** Ms. Champoux, can we take that down,

11:00AM 17 please.

11:00AM 18 **BY MR. COOPER:**

11:00AM 19 Q. Defense counsel asked you a bunch of questions about

11:00AM 20 that. He pressed you on it, but you maintained on

11:00AM 21 cross-examination that the defendant represented to you that

11:00AM 22 his case was still open; is that correct?

11:00AM 23 A. Correct.

11:00AM 24 **MR. COOPER:** Ms. Champoux, can we pull up Government

11:00AM 25 Exhibit 22Q. Can we zoom in on this middle email here?

11:00AM 1 That's the one.

11:00AM 2 **BY MR. COOPER:**

11:00AM 3 Q. What's the date of this email, Special Agent Casullo?

11:01AM 4 A. July 28th, 2015.

11:01AM 5 Q. Is that after January 28th, 2015?

11:01AM 6 A. Yes.

11:01AM 7 Q. About six months later?

11:01AM 8 A. Yes.

11:01AM 9 Q. Read what the defendant wrote to Scott Deming six months
11:01AM 10 after he closed his Serio file.

11:01AM 11 A. Scott, I am not working on the case with Charlie Tolias.

11:01AM 12 We are and have been working on this case currently. We
11:01AM 13 never stopped. I would appreciate if you not share any info
11:01AM 14 relevant to this DEA investigation with DHS until we could
11:01AM 15 coordinate. Thank you for the message. S.A. Bongiovanni.

11:01AM 16 Q. Okay. So I guess it's fair to say you weren't the only
11:01AM 17 person to whom this defendant represented he had an active
11:01AM 18 investigation into Ron Serio months after he had already
11:01AM 19 closed the file, right?

11:01AM 20 **MR. SINGER:** Objection to the form of the question.

11:01AM 21 **THE COURT:** Sustained to the form of the question.

11:01AM 22 **BY MR. COOPER:**

11:01AM 23 Q. How many years were you a DEA agent, sir?

11:01AM 24 A. Approximately 23.

11:01AM 25 Q. In the 23 years of experience that you have as a DEA

11:02AM 1 agent, is it your interpretation of this email that the
11:02AM 2 defendant is representing that his file into Serio is still
11:02AM 3 open?

11:02AM 4 **MR. SINGER:** Objection to speculation.

11:02AM 5 **THE COURT:** Overruled.

11:02AM 6 **THE WITNESS:** Yes.

11:02AM 7 **BY MR. COOPER:**

11:02AM 8 Q. Not a lot of room for interpretation, right?

11:02AM 9 **MR. SINGER:** Objection.

11:02AM 10 **BY MR. COOPER:**

11:02AM 11 Q. We are and have been --

11:02AM 12 **THE COURT:** Sustained.

11:02AM 13 **BY MR. COOPER:**

11:02AM 14 Q. Do you see the sentence, we are and have been working on
11:02AM 15 this case currently?

11:02AM 16 A. Yes.

11:02AM 17 Q. Do you see the sentence, we never stopped?

11:02AM 18 A. Yes.

11:02AM 19 Q. And then do you see the sentence where he says, hey,
11:02AM 20 don't share any of my information with DHS?

11:02AM 21 A. Yes.

11:02AM 22 Q. Okay. That's six months after he closed the file, right?

11:02AM 23 A. Approximately.

11:02AM 24 Q. Almost to the day, right, July 28th, 2015?

11:02AM 25 A. Yes.

11:02AM 1 **MR. COOPER:** You can take that down, Ms. Champoux.

11:02AM 2 **BY MR. COOPER:**

11:02AM 3 Q. On the same topic during cross-examination, you mentioned
11:02AM 4 that it would have been of interest to you to learn that Mike
11:02AM 5 Masecchia had come up during the defendant's Ron Serio
11:02AM 6 investigation; is that right?

11:03AM 7 A. Yes.

11:03AM 8 Q. During that conversation, did the defendant say to you,
11:03AM 9 hey, that target that we both worked on back in '04, Mike
11:03AM 10 Masecchia, he's all over Ron Serio's tolls. Do you want to
11:03AM 11 help me investigate that?

11:03AM 12 A. No.

11:03AM 13 Q. He didn't say that to you?

11:03AM 14 A. No.

11:03AM 15 Q. If he had said that to you, if he had mentioned Mike
11:03AM 16 Masecchia at all, would you have taken an interest in
11:03AM 17 furthering that investigation?

11:03AM 18 A. 100 percent.

11:03AM 19 Q. All right. Don't want to spend too much time on DARTS
11:03AM 20 deconflictions but we're going to do a little bit.

11:03AM 21 **MR. COOPER:** Ms. Champoux, can we pull up 26D, as in
11:03AM 22 David, on the left and Government Exhibit 8A on the right.

11:03AM 23 All right. And on 26D, can you scroll between pages
11:03AM 24 3 and 4. Yep, that's perfect.

11:03AM 25 And then on 8A, can you please go to page 347.

11:04AM

1 BY MR. COOPER:

2 Q. All right. That number on the left on the DARTS here for
3 the Trinity item, 716-866-2687. Is that the same number
4 that's listed here on the subscriber return for Paul
5 Francoforte?

6 A. Yes.

7 Q. Is Paul Francoforte Hot Dog?

8 A. That's how I know him.

9 Q. When you ran Hot Dog's phone number in DARTS on
10 January 7th, 2019, and March 13th, 2019, did that cause the
11 defendant to be notified that you were looking at his phone
12 number in an investigation?

13 A. Yes.

14 Q. Okay. Special Agent Casullo, I want you to remember the
15 date for me that you ran the DARTS in January. Look at it
16 right now. What's the date in January that you ran him in
17 DARTS?

18 A. January 7th, 2019.

19 Q. All right. Keep that in your mind, okay?

20 A. Yes.

21 MR. COOPER: Ms. Champoux, can you take this down and
22 pull up Government Exhibit 358, the Excel spreadsheet Volty
23 records, and we're going to go to line 2511.

24 BY MR. COOPER:

25 Q. This is the defendant's phone records, sir.

11:05AM 1 Do you see a call on line 2511 from January 28th, 2019?

11:05AM 2 A. Okay. I'm looking at it. And I see Hot Dog's number. I

11:05AM 3 don't know the other number that it's in contact with.

11:05AM 4 Q. Okay. If -- if the 718 -- 716-818-0966 number belongs to

11:05AM 5 the defendant, is this an example of a phone call about three

11:05AM 6 weeks after you ran Hot Dog's number in DARTS between the

11:05AM 7 defendant and Hot Dog?

11:05AM 8 A. Yes.

11:05AM 9 **MR. SINGER:** Object to form of the question, Judge.

11:05AM 10 Misstates the evidence.

11:05AM 11 **THE COURT:** You can get into that on recross.

11:05AM 12 Overruled.

11:05AM 13 **BY MR. COOPER:**

11:05AM 14 Q. Let's -- let's take our time with it. You're familiar

11:05AM 15 with phone records, right, sir?

11:06AM 16 A. Yes.

11:06AM 17 Q. Are these phone records?

11:06AM 18 A. Call detail records, phone records, correct.

11:06AM 19 Q. Does this show when one party is calling another?

11:06AM 20 A. Yes.

11:06AM 21 Q. In -- I always mess this up, in column A, is that the

11:06AM 22 date and time that a call was made?

11:06AM 23 A. Correct.

11:06AM 24 Q. Okay. And in columns D, E, and F, is it listing the

11:06AM 25 phone numbers involved in the call?

11:06AM 1 A. That is correct.

11:06AM 2 Q. Okay. January 28th, 2019, is about three weeks after
11:06AM 3 January 7th, 2019; is that correct?

11:06AM 4 A. Correct.

11:06AM 5 Q. 716-866-2687 is Hot Dog's phone number according to the
11:06AM 6 subscriber information that we just looked at on Government
11:06AM 7 Exhibit 8A, page 347; is that right, sir?

11:06AM 8 A. That's correct.

11:06AM 9 Q. Okay. Do you know if 716-818-0966 is the defendant's
11:06AM 10 phone number?

11:06AM 11 A. I can't remember his number.

11:06AM 12 **MR. COOPER:** Okay. We'll take a break for one
11:06AM 13 second.

11:07AM 14 Is there a stipulation for phone records?

11:07AM 15 Oh, it is -- it's stipulated? Can you get me that?

11:07AM 16 **MS. CHAMPOUX:** Yes.

11:07AM 17 **MR. COOPER:** Thank you.

11:07AM 18 I'm going to read Court Exhibit 5 for a moment,
11:07AM 19 Judge, with your permission.

11:07AM 20 **THE COURT:** Sure.

11:07AM 21 **MR. COOPER:** This is paragraph 1 of a Joint Trial
11:07AM 22 Stipulation.

11:07AM 23 **THE COURT:** This is a stipulation?

11:07AM 24 **MR. COOPER:** Yes, Judge.

11:07AM 25 **THE COURT:** Okay.

11:07AM 1 **MR. COOPER:** On or about February 1, 2019, the
11:07AM 2 defendant turned in his DEA-issued Apple iPhone cellular
11:07AM 3 telephone assigned phone number 716-818-0966, and I'm going to
11:07AM 4 stop reading it there.

11:07AM 5 **BY MR. COOPER:**

11:07AM 6 Q. Is that the same phone number that's listed in those
11:07AM 7 phone records, sir?

11:07AM 8 A. Yes.

11:07AM 9 Q. Calling Hot Dog or receiving a call from Hot Dog?

11:07AM 10 A. Correct.

11:07AM 11 **MR. COOPER:** You can take that down, Ms. Champoux.

11:07AM 12 **BY MR. COOPER:**

11:07AM 13 Q. That's about three weeks after you ran Hot Dog in DARTS,
11:07AM 14 right?

11:07AM 15 A. Correct.

11:07AM 16 Q. Do you know what the defendant talked to Hot Dog about on
11:08AM 17 the phone?

11:08AM 18 A. No.

11:08AM 19 **MR. COOPER:** Ms. Champoux, let's pivot and go to the
11:08AM 20 PDF from Government Exhibit 358 entitled 190131677bills.PDF.

11:08AM 21 Can you Control F and search 716-866-2687.

11:08AM 22 **BY MR. COOPER:**

11:08AM 23 Q. In the top-right corner of your screen here, can you see
11:08AM 24 when we search Hot Dog's phone number, how many times he
11:08AM 25 shows up in the defendant's phone records?

11:08AM 1 A. It says find 1 of 50, I don't know if that's what you're
11:08AM 2 talking about.

11:08AM 3 Q. Do you see the highlighted entry here from December 2nd?

11:08AM 4 A. I see that. Correct.

11:08AM 5 Q. Okay. Is that Hot Dog's phone number?

11:08AM 6 A. Yes.

11:08AM 7 **MR. COOPER:** Ms. Champoux, can you click the next
11:08AM 8 button?

11:09AM 9 **BY MR. COOPER:**

11:09AM 10 Q. Is this 2/21 Hot Dog's phone number?

11:09AM 11 A. That's correct.

11:09AM 12 Q. Okay. Now it says 2 of 50 in the top right?

11:09AM 13 A. Correct.

11:09AM 14 Q. Do you understand this to mean that there's 50 instances
11:09AM 15 of Hot Dog and the defendant in phone contact in the
11:09AM 16 defendant's phone records?

11:09AM 17 A. Now, I do.

11:09AM 18 Q. Is that a yes?

11:09AM 19 A. That's yes.

11:09AM 20 **MR. COOPER:** Okay. Thank you. You can take that
11:09AM 21 down, Ms. Champoux.

11:09AM 22 **BY MR. COOPER:**

11:09AM 23 Q. Do you know what they talked about on those 50 phone
11:09AM 24 calls?

11:09AM 25 A. No.

11:09AM 1 Q. You were asked some questions on that same topic of DARTS
11:09AM 2 generally about in the ordinary course of a DEA
11:09AM 3 investigation, if you would first do a subpoena for
11:09AM 4 subscriber information, and then later have a DARTS entry
11:09AM 5 that identifies the name of the user of the phone.

11:09AM 6 Do you remember those questions?

11:09AM 7 A. Yes.

11:09AM 8 Q. That's one way to learn someone's phone number, right?
11:09AM 9 To do a subpoena for subscriber information?

11:09AM 10 A. Oh, yes.

11:09AM 11 Q. Okay. Is another way to learn someone's phone number
11:10AM 12 other than doing a law enforcement subpoena to just call that
11:10AM 13 person 50 times on the phone?

11:10AM 14 A. Yes.

11:10AM 15 Q. Now, I'm not asking whether you're supposed to do this,
11:10AM 16 but is it possible, humanly possible, for a DEA agent to
11:10AM 17 cause a subpoena for subscriber information to be issued for
11:10AM 18 a phone number when they already know that the phone belongs
11:10AM 19 to a person because they have a personal relationship with
11:10AM 20 them?

11:10AM 21 A. Oh, yes.

11:10AM 22 Q. That's humanly possible?

11:10AM 23 A. Yes.

11:10AM 24 Q. Would that cause the same DEA agent to be notified if
11:10AM 25 someone else in law enforcement ran that number in DARTS or

11:10AM 1 DICE?

11:10AM 2 A. Yes.

11:10AM 3 Q. Was the defendant notified that you ran Hot Dog's number
11:10AM 4 in DARTS in January of 2019?

11:10AM 5 A. Yes.

11:10AM 6 Q. All right. We're going to move on now. I'm going to

11:10AM 7 hand you -- actually, what's in evidence as Government

11:10AM 8 Exhibit 100D-2. Just take a look at this. Did you ever see
11:10AM 9 that before, sir?

11:11AM 10 A. I don't believe so.

11:11AM 11 Q. Open it up. Take a look at it.

11:11AM 12 A. I've never seen this.

11:11AM 13 Q. Okay. Can you close it real quick, look at the front.

11:11AM 14 What's it say on the front?

11:11AM 15 A. Wedding day, congratulations on your wedding day.

11:11AM 16 **MR. COOPER:** May I approach, Judge?

11:11AM 17 **THE COURT:** Yes, you may.

11:11AM 18 **MR. COOPER:** May I have that back? Thanks.

11:11AM 19 May I have the ELMO, Ms. Demma?

11:11AM 20 **BY MR. COOPER:**

11:11AM 21 Q. This is what's in evidence as Government Exhibit 100D-2,
11:11AM 22 I'm going to publish it for the jury.

11:11AM 23 Is this the front of a card?

11:11AM 24 A. Yes.

11:12AM 25 Q. Does it appear to be a wedding card, based on your life

11:12AM 1 experience?

11:12AM 2 A. Yes.

11:12AM 3 Q. Does it have a handwritten note at the bottom?

11:12AM 4 A. Yes, it does.

11:12AM 5 Q. What's it say?

11:12AM 6 A. Love, Hot Dog and Lynn. Honored to be your friends.

11:12AM 7 Many years of happiness.

11:12AM 8 Q. When you ran Hot Dog's number in DARTS, did the defendant
11:12AM 9 come up to you and say, hey, I'm actually friends with
11:12AM 10 Hot Dog?

11:12AM 11 A. No.

11:12AM 12 Q. That didn't happen?

11:12AM 13 A. No.

11:12AM 14 Q. Do you know where that wedding card was recovered from,
11:12AM 15 sir?

11:12AM 16 A. No.

11:12AM 17 Q. Okay. Special Agent Casullo, you were asked some
11:13AM 18 questions by Mr. Singer about whether you ever reported the
11:13AM 19 comments that the defendant made to you about investigating
11:13AM 20 Anthony Gerace in 2018; do you remember that?

11:13AM 21 A. I'm sorry, could you repeat that?

11:13AM 22 Q. Yeah. Absolutely.

11:13AM 23 You were asked on cross-examination by defense counsel if
11:13AM 24 you ever reported the comments that the defendant made to you
11:13AM 25 about your investigation into Anthony Gerace.

11:13AM 1 Do you remember him asking you about that?

11:13AM 2 A. Yes.

11:13AM 3 Q. Did you report that to a federal grand jury when you
11:13AM 4 testified in May of 2020?

11:13AM 5 A. Yes.

11:13AM 6 Q. Did you report it to Special Agent Ryan and AUSA Tripi
11:13AM 7 before you ever went in the grand jury?

11:13AM 8 A. Yes.

11:13AM 9 Q. Okay.

11:13AM 10 **MR. COOPER:** Ms. Champoux, can we go to 26C real --
11:13AM 11 real quick.

11:13AM 12 You can scroll down just a bit. Thanks.

11:13AM 13 That's fine, just to get the bottom there.

11:14AM 14 **BY MR. COOPER:**

11:14AM 15 Q. On cross-examination, while you were being cross-examined
11:14AM 16 about this document, sir, in response to a question you said,
11:14AM 17 hey, there was a reason that I kept my -- my remarks general.

11:14AM 18 There was a specific reason I did that. And then the
11:14AM 19 questioning moved on.

11:14AM 20 Explain to the jury, what's the specific reasoning that
11:14AM 21 you kept your remarks general here?

11:14AM 22 A. Because I didn't want Joe Bongiovanni knowing that I was
11:14AM 23 running tolls on Anthony Gerace.

11:14AM 24 Q. Okay. Had that gone poorly the first time it happened?

11:14AM 25 A. Yes.

11:14AM 1 Q. Did there come a time where you were notified that the
11:14AM 2 defendant had been complaining about you making mention of
11:14AM 3 Italian Organized Crime in your DARTS entries?

11:14AM 4 **MR. SINGER:** Object to the hearsay.

11:14AM 5 **THE COURT:** Sustained.

11:14AM 6 **BY MR. COOPER:**

11:14AM 7 Q. Did you stop mentioning Italian Organized Crime in your
11:14AM 8 DARTS entries at some point?

11:14AM 9 A. Yes, I was told to by my supervisor, Jim McHugh.

11:15AM 10 Q. Okay. Without getting into what Jim McHugh said to you,
11:15AM 11 did Jim McHugh explain to you why he was telling you to stop
11:15AM 12 doing that?

11:15AM 13 A. Yes, he did.

11:15AM 14 Q. Was that a directive from Jim McHugh?

11:15AM 15 A. Yes.

11:15AM 16 Q. What did Jim McHugh say to you?

11:15AM 17 A. He said that Ed Orgon, the resident agent in charge --

11:15AM 18 **MR. SINGER:** Objection to hearsay.

11:15AM 19 **MR. COOPER:** It's a directive, Judge, I just asked
11:15AM 20 him.

11:15AM 21 **THE COURT:** It sounds like he's going to say
11:15AM 22 something that Ed Orgon said to him.

11:15AM 23 **MR. COOPER:** Okay.

11:15AM 24 **THE COURT:** That sounds like there's going to be
11:15AM 25 hearsay within hearsay based on where he's going. Maybe not.

11:15AM 1 So -- so, if you want to continue to explore, but he -- again,
11:15AM 2 there's got to be --

11:15AM 3 **MR. COOPER:** Sure.

11:15AM 4 **THE COURT:** -- an exception to hearsay for every bit
11:15AM 5 of hearsay. You understand that?

11:15AM 6 **MR. COOPER:** I do, Judge. Thank you.

11:15AM 7 **BY MR. COOPER:**

11:15AM 8 Q. Was the defendant brought up in your conversation with
11:15AM 9 Jim McHugh?

11:15AM 10 A. Yes.

11:15AM 11 **MR. COOPER:** Okay. That's fine, we'll move on.

11:15AM 12 Can you take that down, Ms. Champoux.

11:15AM 13 **BY MR. COOPER:**

11:16AM 14 Q. You were asked some questions by Mr. Singer about whether
11:16AM 15 you saw a lot of marijuana cases in the DEA Buffalo resident
11:16AM 16 office.

11:16AM 17 Do you remember those questions?

11:16AM 18 A. Correct.

11:16AM 19 Q. Based on how many years total did you work in the DEA
11:16AM 20 Buffalo resident office?

11:16AM 21 A. From September of 2015 until I retired in March of 2022.
11:16AM 22 So a little bit less than seven years.

11:16AM 23 Q. Okay. And in the little bit less than seven years that
11:16AM 24 you spent in the DEA in Buffalo specifically, would a drug
11:16AM 25 dealer making millions of dollars and living in a giant

1 mansion be the sort of thing the DEA Buffalo resident office
2 would be very interested in investigating?

3 A. Absolutely.

4 Q. How about kilo-level cocaine traffickers?

5 A. Absolutely.

6 **MR. COOPER:** Ms. Champoux, can we pull up Government
7 Exhibit 8I real quick?

8 **BY MR. COOPER:**

9 Q. Do you see the subject of this report?

10 A. I -- yes, I see it.

11 Q. Is it an initial debriefing of a source?

12 A. Yes, it is.

13 Q. Is it in that same file number 13-0026?

14 A. Yes.

15 Q. Did the defendant write this report?

16 A. Yes.

17 Q. Does it talk about kilogram quantities of cocaine?

18 A. Yes.

19 Q. And hundreds of pounds of marijuana?

20 A. Yes.

21 Q. Is that the sort of thing the DEA in Buffalo would be

22 interested investigating based on your experience?

23 A. Absolutely.

24 Q. Do you have supervisors in your experience pushing you
25 off of kilo-level coke cases?

11:17AM

1 A. No.

11:17AM

2 Q. That doesn't happen?

11:17AM

3 A. No.

11:17AM

4 **MR. COOPER:** You can take that down, Ms. Champoux.

11:17AM

5 **BY MR. COOPER:**

11:17AM

6 Q. How about people possessing drugs and firearms together?

11:17AM

7 A. Oh, yes.

11:17AM

8 Q. Is that something the DEA in Buffalo is interested in?

11:17AM

9 A. Yes.

11:17AM

10 Q. How about people arranging international shipments of
11 hundreds of pounds of marijuana?

11:18AM

12 A. Yes.

11:18AM

13 Q. Does the DEA clip people on the sidewalk for smoking a
14 joint? Is that what they arrest people for?

11:18AM

15 A. Oh, no.

11:18AM

16 Q. How about shipment of hundreds of pounds of marijuana,
17 does that get on the DEA's radar?

11:18AM

18 A. Yes.

11:18AM

19 Q. How about a school teacher dealing hundreds of pounds of
20 marijuana?

11:18AM

21 A. Absolutely.

11:18AM

22 Q. Would that be of interest to the DEA in Buffalo?

11:18AM

23 A. Absolutely.

11:18AM

24 Q. How about members and associates of Italian Organized
25 Crime being involved in the distribution of hundreds of

11:18AM 1 pounds of marijuana?

11:18AM 2 **MR. SINGER:** Object to the cumulative at this point,
11:18AM 3 Judge.

11:18AM 4 **THE COURT:** Overruled.

11:18AM 5 **BY MR. COOPER:**

11:18AM 6 Q. How about people, members, and associates of IOC being
11:18AM 7 involved in the distribution of hundreds of pounds of
11:18AM 8 marijuana?

11:18AM 9 A. Absolutely.

11:18AM 10 Q. When you were asked those questions by Mr. Singer on
11:18AM 11 cross about whether the DEA seemed to do -- to do a lot of
11:18AM 12 marijuana cases, are all the things I just mentioned things
11:18AM 13 the DEA would have prioritized while you were there?

11:18AM 14 A. Absolutely.

11:18AM 15 Q. Mr. Singer asked you some questions -- we're gonna move
11:19AM 16 on to this 2015 high school reunion.

11:19AM 17 Mr. Singer asked you some questions about why you didn't
11:19AM 18 report your classmate for saying they were gonna snort
11:19AM 19 cocaine off of strippers' asses.

11:19AM 20 Do you remember being asked why you didn't report your
11:19AM 21 classmate for making that comment?

11:19AM 22 A. Yes.

11:19AM 23 Q. Is making that comment against the law?

11:19AM 24 A. No.

11:19AM 25 Q. Once you came back to Buffalo, was it your intention to

11:19AM 1 investigate drug trafficking by Peter Gerace occurring at
11:19AM 2 Pharaoh's?

11:19AM 3 A. Yes.

11:19AM 4 Q. Did you in fact start pursuing that within a year of
11:19AM 5 arriving in Buffalo?

11:19AM 6 A. Yes.

11:19AM 7 Q. Is the DEA's primary focus to investigate drug dealers
11:19AM 8 and not guys going through a mid-life crisis talking about
11:19AM 9 sniffing cocaine off of a stripper's bottom?

11:19AM 10 A. Yes.

11:19AM 11 Q. Okay. And you pursued an investigation into Gerace up
11:19AM 12 until the point that the defendant stopped you in your tracks
11:19AM 13 during that conference room interaction, right?

11:20AM 14 **MR. SINGER:** Objection, misstates the evidence.

11:20AM 15 **THE COURT:** Overruled.

11:20AM 16 **BY MR. COOPER:**

11:20AM 17 Q. You started an investigation into Gerace, right?

11:20AM 18 A. Correct.

11:20AM 19 Q. You ran phone tolls, right?

11:20AM 20 A. Yes.

11:20AM 21 Q. After you did that, you had the conversation with the
11:20AM 22 defendant in the conference room, right?

11:20AM 23 A. Yes.

11:20AM 24 Q. Is it your -- was it your impression during that
11:20AM 25 conversation in the conference room that the defendant was

11:20AM 1 trying to deter you from investigating Gerace?

11:20AM 2 A. Yes.

11:20AM 3 Q. Was it your impression that the shit sandwich, as you
11:20AM 4 described it, that he dumped on you by saying the things that
11:20AM 5 he said to you, did that cause you to just walk away from it
11:20AM 6 for a while?

11:20AM 7 A. It -- it certainly did.

11:20AM 8 Q. Did you ultimately start working on it again when you
11:20AM 9 found out that the U.S. Attorney's Office had a file open on
11:20AM 10 Gerace?

11:20AM 11 A. I started working it more at that point.

11:20AM 12 Q. You testified that a few weeks after the conversation
11:21AM 13 that you had with the defendant in the conference room where
11:21AM 14 the defendant pressured you to stop investigating Gerace,
11:21AM 15 that Gerace called you out of the blue; is that what
11:21AM 16 happened?

11:21AM 17 A. That's correct.

11:21AM 18 Q. Okay. Do you know Peter Gerace's phone number at that
11:21AM 19 time at least to be 716-725-1931?

11:21AM 20 A. I don't know his number.

11:21AM 21 Q. Okay.

11:21AM 22 **MR. COOPER:** Ms. Champoux, can I get Court Exhibit 5,
11:21AM 23 ma'am. Thank you.

11:21AM 24 Can we pull up 359, Ms. Champoux. I'm sorry, I've
11:22AM 25 got you running around, 359 in evidence. And if you can go to

1 subscriber information. Thank you.

2 Can we just expand column A for me, ma'am. Okay.

3 **BY MR. COOPER:**

4 Q. And, sir, in column A of Government Exhibit 359, the
5 Excel spreadsheet called Subscriber Information, do you see
6 the phone number listed 716-725-1931.

7 A. Yes.

8 Q. Okay. And in the names listed in columns M, as in
9 Michael, and N, as in Nancy, what are the names listed there?

10 A. Peter Gerace.

11 Q. Have you looked at subscriber records before testifying,
12 like, have you done that your whole career?

13 A. Yes.

14 Q. Is that phone number in column A associated with Peter
15 Gerace based on this record?

16 A. Yes.

17 Q. Okay. So let's remember that number, 725-1931.

18 **MR. COOPER:** You can take that down, Ms. Champoux.

19 And if we can go back to Government Exhibit 358, the
20 PDF.

21 Go to page 349, please. Thank you.

22 **BY MR. COOPER:**

23 Q. So at the very top here, this is a phone bill, right?

24 A. Correct.

25 Q. At the very top here, is this a bill that's due in August

11:23AM 1 of 2016?

11:23AM 2 A. Correct.

11:23AM 3 Q. Based on your experience, does that mean that these are
11:23AM 4 calls made leading up to August of 2016?

11:23AM 5 A. Yes.

11:23AM 6 Q. Okay. And let's -- on page 349, let's look for a phone
11:23AM 7 call from June 25, 2016, with that same 725-1931 phone
11:23AM 8 number.

11:23AM 9 Do you see the first one there?

11:23AM 10 A. Yes, I do.

11:23AM 11 Q. And we've already established that this 818-0966 number,
11:23AM 12 that's the defendant's phone number, right?

11:23AM 13 A. Correct.

11:23AM 14 Q. Okay. On June 25 of 2016, is that after the
11:24AM 15 confrontation in the conference room, sir?

11:24AM 16 A. Yes.

11:24AM 17 Q. And is there a phone call here for one minute incoming
11:24AM 18 from Peter Gerace to Joe Bongiovanni?

11:24AM 19 A. Yes.

11:24AM 20 Q. Okay. How about the next one down, June 25, 11:51, one
11:24AM 21 minute later, another -- oh, I'm sorry, the first one was
11:24AM 22 outgoing, the second one, do you see an incoming call here
11:24AM 23 from Peter to Joe?

11:24AM 24 A. Yes.

11:24AM 25 Q. And it says incoming call here, right?

11:24AM 1 A. Right, correct.

11:24AM 2 **MR. COOPER:** And then if you can scroll down or
11:24AM 3 highlight just a little lower.

11:24AM 4 **BY MR. COOPER:**

11:24AM 5 Q. Seven hours later at 8:43 p.m., is there an outgoing call
11:24AM 6 from the defendant to Peter Gerace that lasted about two
11:24AM 7 minutes?

11:24AM 8 A. Yes.

11:24AM 9 Q. Is that within weeks of the confrontation in the
11:24AM 10 conference room?

11:24AM 11 A. Yes.

11:24AM 12 Q. Do you know what they talked about on those phone calls?

11:24AM 13 A. No.

11:24AM 14 Q. So when Mr. Singer asked you all those questions about
11:24AM 15 whether the defendant did anything to hamper your
11:24AM 16 investigation of Gerace, do you know whether he did or not?

11:25AM 17 A. No.

11:25AM 18 **MR. COOPER:** You can take that exhibit down,
11:25AM 19 Ms. Champoux. Thank you.

11:25AM 20 **BY MR. COOPER:**

11:25AM 21 Q. You did some work on a Peter Gerace investigation in
11:25AM 22 2016, but were stopped pretty quickly; is that fair to say?

11:25AM 23 A. Yes.

11:25AM 24 Q. You got started doing some work on Gerace, Peter and
11:25AM 25 Anthony, in 2018; is that right?

11:25AM 1 A. Correct.

11:25AM 2 Q. Was Curtis Ryan the primary person who was working on
11:25AM 3 that Gerace investigation?

11:25AM 4 A. Yes.

11:25AM 5 Q. Okay. Was Curtis Ryan the person coordinating with the
11:25AM 6 United States Attorney's Office about that investigation?

11:25AM 7 A. At -- at which point, sir?

11:25AM 8 Q. Was Curtis -- based on your awareness, if you know, was
11:25AM 9 Curtis Ryan the primary person who was coordinating with the
11:25AM 10 U.S. Attorney's Office on that case?

11:26AM 11 A. Yes.

11:26AM 12 Q. After you made the report on August 1st of 2018 to AUSA
11:26AM 13 Tripi and Jim McHugh about the comments that the defendant
11:26AM 14 had made to you in 2016, did you later submit to multiple
11:26AM 15 interviews by OIG?

11:26AM 16 A. Yes.

11:26AM 17 Q. Did you tell them the truth?

11:26AM 18 A. Yes.

11:26AM 19 Q. Did you tell this jury the truth?

11:26AM 20 A. Yes.

11:26AM 21 Q. You were asked questions on cross-examination about
11:26AM 22 whether Phil Domiano was brought up at that meeting; do you
11:26AM 23 remember that?

11:26AM 24 A. Yes.

11:26AM 25 Q. Did the fact that Phil Domiano was brought up at that

1 meeting have anything to do with what you disclosed during
2 that meeting about what the defendant said to you?

3 A. No.

4 Q. You were asked questions on cross-examination about Phil
5 Domiano's association with Peter Gerace and whether if you as
6 an agent had a relationship with the subject or target.

7 And in response to those questions, you said agents -- an
8 agent should meet with a supervisor and a decision would be
9 made; do you remember that?

10 A. Yes.

11 Q. Okay. Is it the agent's responsibility to bring that to
12 the attention of a supervisor?

13 A. The conflict of interest?

14 Q. Yes.

15 A. Yes.

16 Q. Okay. Is it the agent's responsibility to tell the truth
17 about the nature and extent of that relationship?

18 A. Yes.

19 **MR. COOPER:** Ms. Champoux, can we pull up three
20 different exhibits, 127, 490A, and 426-1.

21 And on the bottom left here, can you zoom in on just
22 the right side of the photograph with defendant and Peter?

23 No, just the right side of the photograph.

24 All right. Move that over a little bit. Perfect.

25 And then on the bottom right, can you zoom in on the

11:28AM 1 right half of the photograph? Perfect. Thank you.

11:28AM 2 Move that over. Awesome.

11:28AM 3 **BY MR. COOPER:**

11:28AM 4 Q. Do you see these pictures on the screen in front of you,
11:28AM 5 sir?

11:28AM 6 A. Yes.

11:28AM 7 Q. You were asked some questions about the conversation that
11:28AM 8 you had with the defendant in the conference room in June of
11:28AM 9 2016.

11:28AM 10 Do you remember being asked those questions?

11:28AM 11 A. Yes.

11:28AM 12 Q. You were asked questions about whether the defendant said
11:28AM 13 anything about Narcan. Did he say anything about Narcan?

11:28AM 14 A. No.

11:28AM 15 Q. You were asked questions about the meaning of the words
11:29AM 16 "get her out of there." Do you remember being asked what
11:29AM 17 those words mean?

11:29AM 18 A. Yes.

11:29AM 19 Q. Did the defendant use the words in the meeting with you,
11:29AM 20 "I told him to call 911"?

11:29AM 21 A. No.

11:29AM 22 Q. Did he say "I told him to call the police"?

11:29AM 23 A. Absolutely not.

11:29AM 24 Q. Did he say "I told him to call an ambulance"?

11:29AM 25 A. No.

11:29AM 1 Q. Did he say "I told him to get Narcan"?

11:29AM 2 A. No.

11:29AM 3 Q. What did the defendant tell you that he told Peter Gerace
11:29AM 4 when he called him and said a stripper was overdosing at his
11:29AM 5 club?

11:29AM 6 A. To get her out of there.

11:29AM 7 Q. When you heard him say it, did that make you think it had
11:29AM 8 a nefarious purpose?

11:29AM 9 A. Yes.

11:29AM 10 **MR. COOPER:** Ms. Champoux, I want to play Government
11:29AM 11 Exhibit 311 now, and I guess do it with the microphone so that
11:29AM 12 it plays from the beginning, please.

11:29AM 13 **MR. SINGER:** Judge, object to outside the scope at
11:29AM 14 this point.

11:29AM 15 **MR. COOPER:** I can come up and argue it if you want.
11:30AM 16 311 is the voicemail.

11:30AM 17 **THE COURT:** Yeah, come on up.

10:52AM 18 (Sidebar discussion held on the record.)

11:30AM 19 **MR. COOPER:** So my --

11:30AM 20 **THE COURT:** This is the voicemail?

11:30AM 21 **MR. COOPER:** Yeah, about tracker phone. So my
11:30AM 22 response is that the cross-examination was targeted towards
11:30AM 23 saying, hey, there's alternative, innocent explanations for
11:30AM 24 the comments that the defendant made.

11:30AM 25 I'm contextualizing that with another exhibit that's

11:30AM 1 in evidence. So the objection to outside of the scope,
11:30AM 2 it's -- it's not an exhibit that Mr. Singer chose to use, but
11:30AM 3 it's an exhibit that supports the government's theory of the
11:30AM 4 case. I don't believe it's outside the scope, Judge.

11:30AM 5 **THE COURT:** Yeah, so why isn't that in response to
11:30AM 6 your cross?

11:30AM 7 **MR. SINGER:** I don't think it is. We're getting so
11:30AM 8 far afield at this point in time.

11:30AM 9 If you're going to allow them retry their entirety of
11:30AM 10 their case at this point in time on cross-examination, it's
11:30AM 11 outside the scope, Judge. I didn't bring it up, it doesn't
11:30AM 12 have anything to do with it.

11:30AM 13 **MR. COOPER:** He brought up the motive for the comment
11:30AM 14 and I'm combatting that with other evidence. That's redirect.

11:31AM 15 **THE COURT:** Overruled.

11:31AM 16 (End of sidebar discussion.)

11:31AM 17 **THE COURT:** Overruled. You can -- you can proceed.

11:31AM 18 **MR. COOPER:** Ms. Champoux, can you play 311, please.

11:31AM 19 Listen.

11:31AM 20 (Exhibit 311, audio, was played.)

11:31AM 21 **MR. COOPER:** Can we turn the volume up a little bit,
11:31AM 22 please? Thank you, ma'am.

11:31AM 23 Can we try that one more time, Ms. Champoux?

11:31AM 24 **MR. SINGER:** Objection.

11:31AM 25 **THE COURT:** Yes, sustained.

11:31AM 1 **MR. COOPER:** I don't know that it was audible.

11:31AM 2 **BY MR. COOPER:**

11:31AM 3 Q. Were you able to hear that, sir?

11:31AM 4 A. Most of it.

11:31AM 5 Q. Okay. Did you catch the words -- all the words that were
11:31AM 6 being said?

11:31AM 7 A. About tracking a phone.

11:31AM 8 Q. Okay. Did you recognize the voices on the call?

11:31AM 9 A. I recognized the person making the call.

11:32AM 10 Q. Or the voice on the call, I'm sorry. Whose voice did you
11:32AM 11 recognize?

11:32AM 12 A. Peter Gerace.

11:32AM 13 Q. Okay. And what did Peter Gerace say in that recording?

11:32AM 14 A. Asking something about trying to track a phone, how you
11:32AM 15 could track a phone for him.

11:32AM 16 Q. Did you hear him say, hey, Joe, it's Peter?

11:32AM 17 A. Yes.

11:32AM 18 Q. Did you hear him ask whether the police were able to ping
11:32AM 19 a TracFone like they do with drug dealers?

11:32AM 20 A. Yes.

11:32AM 21 **MR. COOPER:** Can we go to Government Exhibit 310D,
11:32AM 22 please. Can we go to page 42, ma'am.

11:32AM 23 Can you zoom in on the gray box in the middle there.

11:32AM 24 **BY MR. COOPER:**

11:32AM 25 Q. Can you see a text message responding to an audio

11:32AM 1 recording here?

11:32AM 2 A. Yes.

11:32AM 3 Q. What's it say?

11:32AM 4 A. Yes, but you would need a warrant to get a ping order.

11:32AM 5 **MR. COOPER:** Okay, you can take that down,

11:33AM 6 Ms. Champoux.

11:33AM 7 **BY MR. COOPER:**

11:33AM 8 Q. Before just now, had you ever heard that audio recording

11:33AM 9 before?

11:33AM 10 A. No.

11:33AM 11 Q. Had you ever seen that text message before?

11:33AM 12 A. No.

11:33AM 13 Q. Did that help you contextualize the comments the

11:33AM 14 defendant made to you in the conference room in 2016?

11:33AM 15 **MR. SINGER:** Objection.

11:33AM 16 **THE COURT:** Basis?

11:33AM 17 **MR. SINGER:** Could we come up. Judge?

11:33AM 18 **THE COURT:** Sure, come on up.

11:33AM 19 (Sidebar discussion held on the record.)

11:33AM 20 **MR. SINGER:** So if I understand the question, Judge,

11:33AM 21 Mr. Cooper's asking the witness whether something that he

11:33AM 22 heard for the first time now can help him contextualize a

11:33AM 23 conversation and how he contextualizes it back in 2016. So

11:33AM 24 you can't use -- it's apples and oranges. You can't use it

11:33AM 25 that way.

11:33AM 1 **MR. COOPER:** No, I disagree.

11:33AM 2 So on cross-examination, Mr. Singer tried to suggest

11:33AM 3 repeatedly that there were two possible things, and you were

11:33AM 4 grappling with what it was. And he was grappling with it at

11:34AM 5 the time.

11:34AM 6 I just played an exhibit that's in evidence, and

11:34AM 7 asked him if that helped contextualize what he heard back in

11:34AM 8 2016.

11:34AM 9 **THE COURT:** (Indecipherable.)

11:34AM 10 **MR. COOPER:** The judge said link it to the cross and

11:34AM 11 you can do it.

11:34AM 12 **THE COURT:** (Indecipherable.) I hope we're wrapping

11:34AM 13 up.

11:34AM 14 **MR. COOPER:** I have one more --

11:34AM 15 **MR. SINGER:** Here's the problem is that it's an

11:34AM 16 argument question, Judge, all right?

11:34AM 17 When I asked questions about what he was grappling

11:34AM 18 with, I asked him what was going through your head in 2016 in

11:34AM 19 the conference room.

11:34AM 20 This is asking him about something that never

11:34AM 21 occurred in the conference room, didn't even occur in 2016,

11:34AM 22 and he's asking --

11:34AM 23 (Simultaneous talking.)

11:34AM 24 **MR. SINGER:** It has nothing to do with it.

11:34AM 25 **THE COURT:** (Indecipherable.)

11:34AM 1 **MR. COOPER:** It's tried -- so the cross-examination
11:34AM 2 was trying to suggest through the witness, instead of arguing
11:34AM 3 on summation, trying to suggest through the witness that the
11:34AM 4 witness thought that there was a potential nefarious purpose
11:34AM 5 or a potential not nefarious purpose.

11:34AM 6 **THE COURT:** Yes.

11:34AM 7 **MR. COOPER:** The witness has been played an exhibit
11:35AM 8 in evidence, and I'm asking if that contextualized what he
11:35AM 9 heard in 2016 for him.

11:35AM 10 **THE COURT:** But again, what -- what Mr. Singer's
11:35AM 11 questions were directed to is what he thought at that time,
11:35AM 12 not what he thinks now. And what he thinks now, why is that
11:35AM 13 relevant? It's what he thought at the time, right? Why is --
11:35AM 14 why is what he thinks about it now relevant.

11:35AM 15 What the jury thinks about it now is what's relevant,
11:35AM 16 not this witness.

11:35AM 17 **MR. COOPER:** I'll move on.

11:35AM 18 **THE COURT:** So I'll sustain the objection.

11:35AM 19 (End of sidebar discussion.)

11:35AM 20 **THE COURT:** The objection is sustained.

11:35AM 21 Next question, please.

11:35AM 22 **BY MR. COOPER:**

11:35AM 23 Q. At the time that you had that conversation with the
11:35AM 24 defendant in the conference room, did you know that that
11:35AM 25 audio recording existed?

11:35AM 1 A. No.

11:35AM 2 Q. Had you ever heard it before?

11:35AM 3 A. No.

11:35AM 4 Q. So when Mr. Singer asked you on cross-examination about
11:35AM 5 whether there were alternative explanations for it and he
11:35AM 6 could have meant get her to a hospital, were you basing it on
11:36AM 7 what you knew at the time?

11:36AM 8 A. Yes.

11:36AM 9 Q. At the time, did you think it was nefarious?

11:36AM 10 A. Yes.

11:36AM 11 **MR. COOPER:** May I just have one second, Judge.

11:37AM 12 **BY MR. COOPER:**

11:37AM 13 Q. You were asked -- finally, you were asked some questions
11:37AM 14 on cross-examination about when you chose to come forward
11:37AM 15 with the information that you heard from the defendant's
11:37AM 16 mouth in 2016.

11:37AM 17 Do you remember being asked about that?

11:37AM 18 A. Yes.

11:37AM 19 Q. And about why you waited?

11:37AM 20 A. Yes.

11:37AM 21 Q. And about DEA policy that requires you to report it,
11:37AM 22 right?

11:37AM 23 A. Yes.

11:37AM 24 Q. Should you have reported it?

11:37AM 25 A. Yes.

11:37AM 1 Q. Okay. Did hearing Ron Serio describe that the defendant
11:37AM 2 had passed the names of informants, was that an impetus to --
11:37AM 3 to have you come forward with the information that you knew
11:37AM 4 about what the defendant said to you related to Peter Gerace?

11:37AM 5 A. Definitely part of it.

11:37AM 6 **MR. COOPER:** Okay. I have no further redirect.

11:37AM 7 **THE COURT:** Anything more, Mr. Singer?

11:37AM 8

11:37AM 9 **RECROSS-EXAMINATION BY MR. SINGER:**

11:37AM 10 Q. You talked a little bit on redirect, sir, about your
11:38AM 11 August 1st, 2018 report about the conversation in June 2016.
11:38AM 12 Do you remember testifying to that a few minutes ago?

11:38AM 13 A. Yes.

11:38AM 14 Q. And Mr. Cooper asked you about when you reported this,
11:38AM 15 whether you knew about whether you were going to be removed
11:38AM 16 from a case because of a conflict; do you remember that?

11:38AM 17 A. Yeah. What was the specific question he asked?

11:38AM 18 Q. The basic fact is is that when you reported this in 2018,
11:38AM 19 you didn't know you were going to be removed from the Peter
11:38AM 20 Gerace case at that time, correct?

11:38AM 21 A. I didn't know I would ultimately be removed.

11:38AM 22 Q. I mean, you didn't even think you were gonna be removed
11:38AM 23 from the case, right, because you had a conversation with
11:38AM 24 Mr. Tripi where you said you didn't think you had a reason to
11:38AM 25 be removed, right?

11:38AM 1 A. Well, that's Mr. Tripi. I had no idea what my own
11:38AM 2 management would do. And I knew that it would go back, and
11:38AM 3 it would go through our chain of command, all the way up to
11:38AM 4 the top. So I had no idea what was gonna happen at that
11:38AM 5 point.

11:38AM 6 Q. All right. So you had no idea what was gonna happen at
11:38AM 7 the point, right?

11:38AM 8 A. No, because DEA -- I knew it would go through the chain
11:38AM 9 of command at DEA.

11:38AM 10 Q. So, you got asked on redirect as well about you testified
11:39AM 11 that you -- you didn't have a clue as to why Joe Bongiovanni
11:39AM 12 wanted his name off the reports.

11:39AM 13 Do you remember taking about that, sir?

11:39AM 14 A. I remember talking about it.

11:39AM 15 Q. But you knew exactly why, right?

11:39AM 16 A. What was my testimony?

11:39AM 17 Q. Joe Bongiovanni told you why he didn't want to be on
11:39AM 18 those reports, correct?

11:39AM 19 A. He said he knew those people from -- he knew him from
11:39AM 20 growing up. You're talking about when I --

11:39AM 21 Q. Yes.

11:39AM 22 A. -- about Mike Masecchia? He knew him from North Buffalo.

11:39AM 23 Q. So you do have a clue as to why he didn't want to be on
11:39AM 24 those reports, correct, sir?

11:39AM 25 A. Based on what he told me.

11:39AM 1 Q. Mr. Cooper asked you about that 2009 Mike Masecchia
11:39AM 2 investigation. The case agent on that case was Cory Higgins,
11:39AM 3 right?

11:39AM 4 A. Yes.

11:39AM 5 Q. Cory Higgins never called you up, correct?

11:39AM 6 A. No.

11:39AM 7 Q. And you were shown something which confirmed that the
11:39AM 8 NADDIS entry that you put in back in 2004, that was in the
11:39AM 9 system when Cory Higgins opened up the report, correct?

11:39AM 10 A. So I was shown a NADDIS number from that report, and
11:39AM 11 there was a NADDIS number next to Masecchia. I don't know if
11:39AM 12 it's the same NADDIS number I had, but it showed a NADDIS
11:39AM 13 number after Michael Masecchia's name.

11:39AM 14 Q. Yep. And so Higgins could have looked up your past
11:40AM 15 investigation and called you, right?

11:40AM 16 A. I mean, part of the process is to search a name that
11:40AM 17 you're targeting in the DEA intelligence system to see if
11:40AM 18 anyone else has been working on that case.

11:40AM 19 Q. Yep. And he could have done that, and he didn't do it
11:40AM 20 because, he never called you, right?

11:40AM 21 A. He never called me.

11:40AM 22 Q. And you had no information that Joe Bongiovanni was ever
11:40AM 23 involved in that investigation, correct?

11:40AM 24 A. Involved?

11:40AM 25 Q. Yes. He was never investigating that case, correct?

11:40AM 1 A. Not to my knowledge.

11:40AM 2 Q. You don't even know today whether he even knew about the
11:40AM 3 case, right?

11:40AM 4 A. Again, what I said before about Cory Higgins telling me.

11:40AM 5 Q. I got you.

11:40AM 6 **MR. SINGER:** So, Ms. Champoux, can you bring up
11:40AM 7 Exhibit 22Q, please?

11:40AM 8 **BY MR. SINGER:**

11:40AM 9 Q. So Mr. Cooper showed you this exhibit; do you remember
11:40AM 10 this, sir? Talking about the center section.

11:40AM 11 A. That part I -- yep.

11:40AM 12 Q. Yeah, about how in 2015, Joe Bongiovanni was talking
11:41AM 13 about still looking into Ron Serio; do you remember that?

11:41AM 14 A. Yeah. What I have circled here, I remember this.

11:41AM 15 Q. And we talked about on your cross-examination how just
11:41AM 16 because a case is closed doesn't mean that a DEA agent loses
11:41AM 17 interest in a target they weren't able to develop a case on,
11:41AM 18 right?

11:41AM 19 A. Possibly.

11:41AM 20 Q. Yeah, so for instance, like -- like Peter Gerace, you
11:41AM 21 never really officially opened a file on him, right, as a
11:41AM 22 subject title.

11:41AM 23 A. I did not.

11:41AM 24 Q. But you still had interest in him, right?

11:41AM 25 A. Yes.

11:41AM 1 Q. And you were just waiting for the right time and place to
11:41AM 2 open up an investigation, correct?

11:41AM 3 A. Once I have enough information that I believe to open a
11:41AM 4 case.

11:41AM 5 Q. Mr. Cooper --

11:41AM 6 **MR. SINGER:** You can take that down, Ms. Champoux.

11:41AM 7 **BY MR. SINGER:**

11:41AM 8 Q. -- Mr. Cooper asked you questions about Mike Masecchia
11:41AM 9 and whether that was brought up in your 2015 or 2016
11:41AM 10 conversation with Mr. Bongiovanni about the Ron Serio file.

11:41AM 11 Do you remember that, sir?

11:41AM 12 A. Yes.

11:41AM 13 Q. And you had mentioned that you had interest in the fact
11:41AM 14 that Mike Masecchia was involved in that investigation,
11:41AM 15 correct?

11:41AM 16 A. I would have been interested in that if I knew.

11:41AM 17 Q. So -- so, let's go back to the Ron Serio. You were told
11:42AM 18 about Ron Serio, right?

11:42AM 19 A. He mentioned Ron Serio with the file on his desk, that
11:42AM 20 conversation.

11:42AM 21 Q. Yeah, and he told you it was a big case?

11:42AM 22 A. Yep.

11:42AM 23 Q. And did you say to him something like, hey, Joe, this
11:42AM 24 sounds awesome. Let's go out and investigate this right now.
11:42AM 25 Open it up. Did you say that?

11:42AM 1 A. No.

11:42AM 2 Q. You talked a little bit about Government Exhibit 311 that

11:42AM 3 you were played; do you remember that, sir?

11:42AM 4 A. Just that recent audio call?

11:42AM 5 Q. Yes.

11:42AM 6 A. Yes.

11:42AM 7 Q. And the substance of that was that Peter Gerace was

11:42AM 8 asking a question about whether the police could track a

11:42AM 9 phone; do you remember that?

11:42AM 10 A. Yep.

11:42AM 11 Q. And you've been a law enforcement officer for a really

11:42AM 12 long time, right?

11:42AM 13 A. Yes.

11:42AM 14 Q. Have you had friends and family ask you questions about

11:42AM 15 the law?

11:42AM 16 A. Different questions, yeah.

11:42AM 17 Q. So that's not just something that comes out of the blue,

11:42AM 18 right?

11:42AM 19 A. Yes. Specific question like that, never had that

11:42AM 20 experience before, but I've had people ask me questions about

11:42AM 21 the law in the past.

11:42AM 22 Q. Thank you.

11:43AM 23 And with regard to the June 2016 conversation, Mr. Cooper

11:43AM 24 asked you whether you inferred a nefarious purpose to that

11:43AM 25 conversation; do you remember that?

11:43AM 1 A. Yes.

11:43AM 2 Q. But your testimony on cross was you were conflicted,
11:43AM 3 right?

11:43AM 4 A. Feeling multiple things.

11:43AM 5 Q. Yeah. Like in one hand, you thought maybe there's a
11:43AM 6 nefarious purpose to this, right?

11:43AM 7 A. Yes.

11:43AM 8 Q. But on the other hand, you weren't really sure?

11:43AM 9 A. I was confused.

11:43AM 10 Q. And you sat with that, and you struggled with that for
11:43AM 11 about two years, right?

11:43AM 12 A. I sat with it, and things changed along the way.

11:43AM 13 Q. Um-hum. But at first, you were sitting there not knowing
11:43AM 14 whether there was a nefarious purpose or not, right?

11:43AM 15 A. Correct.

11:43AM 16 Q. So to say on redirect that you inferred a nefarious
11:43AM 17 purpose immediately, that would be incorrect, right?

11:43AM 18 A. Again, I don't remember the exact words about inferring
11:43AM 19 that immediately, but I did infer that at some point during
11:43AM 20 that process.

11:43AM 21 Q. But not immediately?

11:43AM 22 A. Again, I'm not comfortable saying it immediately. I
11:43AM 23 mean, he said it, and that became part of my thought process.
11:43AM 24 So immediately would be, I guess, when he says it.

11:44AM 25 Q. And you didn't take any action like we talked about,

11:44AM 1 right?

11:44AM 2 A. No.

11:44AM 3 Q. And as far as Peter Gerace is concerned, back in 2016,
11:44AM 4 the government asked you whether or not this June 2016
11:44AM 5 conversation in any way strayed you away from the Peter
11:44AM 6 Gerace case.

11:44AM 7 Do you remember that?

11:44AM 8 A. Yes.

11:44AM 9 Q. So we went through a number of things on
11:44AM 10 cross-examination about what was happening at that time. So
11:44AM 11 one of the things we went through, and we went through it
11:44AM 12 again a few moments ago, is you never officially opened a
11:44AM 13 file title on Peter Gerace back in 2016, right?

11:44AM 14 A. No.

11:44AM 15 Q. So you didn't even have an open investigation at that
11:44AM 16 time, correct?

11:44AM 17 A. It was like the beginning stages of the things that I
11:44AM 18 mentioned, but not an actual case file open on Gerace.

11:44AM 19 Q. Correct. And you had other active cases ongoing at that
11:44AM 20 time, right?

11:44AM 21 A. Yeah. It was during the timeframe -- I think it was at
11:44AM 22 the end of that wire case with the State Attorney General's
11:44AM 23 Office.

11:44AM 24 Q. Yeah, we mentioned that the Ramos-Ramos case was
11:44AM 25 concluding, but there was a lot of work to conclude that,

11:45AM 1 right?

11:45AM 2 A. Yes.

11:45AM 3 Q. And that was all ongoing at that time?

11:45AM 4 A. It was during that time frame.

11:45AM 5 Q. And those were all the things that we went through that

11:45AM 6 prevented you from going out and conducting surveillance and

11:45AM 7 pole cameras and things like that, correct?

11:45AM 8 A. I don't agree with that. That's not what prevented me

11:45AM 9 from doing it.

11:45AM 10 Q. Okay. But you didn't do those things, right?

11:45AM 11 A. I didn't do those things.

11:45AM 12 Q. And most importantly, you talked about how at that point

11:45AM 13 in time in 2016 you had not developed a CI with regard to

11:45AM 14 Peter Gerace, correct?

11:45AM 15 A. I had not.

11:45AM 16 Q. And that was something that you described in your own

11:45AM 17 testimony was something that was critically important to

11:45AM 18 developing a lot of different cases, right?

11:45AM 19 A. For me, I believe that.

11:45AM 20 Q. And in this particular situation vis-à-vis Peter Gerace,

11:45AM 21 that didn't happen until Myszka came in in 2017 to start

11:45AM 22 proffering, correct?

11:45AM 23 A. Correct.

11:45AM 24 Q. And then you got information that was useful to you to

11:45AM 25 help develop further investigation, correct?

11:45AM

1 A. Correct.

11:45AM

2 Q. The CI that you never had, so to speak?

11:45AM

3 A. It was someone that was a human source that was talking
4 about Peter and illegal activity.

11:45AM

5 Q. And that helped move the investigation forward, correct?

11:45AM

6 A. It did.

11:45AM

7 **MR. SINGER:** Okay. Thank you. I have no further
8 questions, Judge.

11:46AM

9

10 **RE-REDIRECT EXAMINATION BY MR. COOPER:**

11:46AM

11 Q. Just one. On that Exhibit 311, the audio recording, at
12 the time that that audio recording was made and responded to
13 by a text message by the defendant, Peter Gerace was a
14 convicted felon at that time, right?

11:46AM

15 A. I believe so.

11:46AM

16 Q. Peter Gerace had been a convicted felon since the late
17 '90s or early 2000s, right, sir?

11:46AM

18 A. That's my understand.

11:46AM

19 Q. Mr. Singer asked you if it was common, not out of the
20 ordinary, for friends and family to ask questions about law
21 enforcement stuff, right?

11:46AM

22 A. Correct.

11:46AM

23 Q. Did you ever have a convicted felon ask you if law
24 enforcement has the technological ability to ping TracFones?

11:46AM

25 A. No.

11:46AM

1 Q. No?

11:46AM

2 **MR. COOPER:** Nothing further, Judge.

11:46AM

3 **THE COURT:** Anything more?

11:46AM

4 **MR. SINGER:** Nothing further, Judge.

11:46AM

5 **THE COURT:** You can step down, sir.

11:46AM

6 **THE WITNESS:** Thank you.

11:46AM

7 (Witness excused at 11:46 a.m.)

8 (Excerpt concluded at 11:46 a.m.)

9 * * * * *

10

11

12

13

CERTIFICATE OF REPORTER

14

15

In accordance with 28, U.S.C., 753(b), I certify that these original notes are a true and correct record of proceedings in the United States District Court for the Western District of New York on September 25, 2024.

19

20

21

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR
Official Court Reporter
U.S.D.C., W.D.N.Y.

22

23

24

25

1
2 **TRANSCRIPT INDEX**
3

4 **EXCERPT - EXAMINATION OF ANTHONY CASULLO - DAY 2**
5

6
7 **SEPTEMBER 25, 2024**
8

	<u>W I T N E S S</u>	<u>P A G E</u>
8	A N T H O N Y C A S U L L O	2
9	(CONT'D) CROSS-EXAMINATION BY MR. SINGER:	2
10	REDIRECT EXAMINATION BY MR. COOPER:	46
11	RECROSS-EXAMINATION BY MR. SINGER:	92
12	RE-REDIRECT EXAMINATION BY MR. COOPER:	101